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No. 80 Original

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**In the
Supreme Court of the United States**

October Term, 1979

STATE OF LOUISIANA,

Plaintiff,

V.

STATE OF MISSISSIPPI, ET AL.

Defendants

**MOTION TO FILE COMPLAINT, COMPLAINT
AND APPLICATION FOR STAY ORDER,
AND BRIEF IN SUPPORT OF MO-
TION, COMPLAINT AND APPLI-
CATION FOR STAY ORDER**

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APPENDIX

No. _____ Original

**In The
Supreme Court of the United
States**

OCTOBER TERM, 1979

STATE OF LOUISIANA,

Plaintiff,

V.

STATE OF MISSISSIPPI, ET AL

Defendants

**MOTION FOR LEAVE TO FILE COMPLAINT
AND FOR STAY ORDER**

The State of Louisiana, appearing herein through the Honorable William J. Guste, Jr., its Attorney General, acting in pursuance of the authority and powers vested in him by Article IV, Section 8 of the Louisiana Constitution, respectfully states that:

1. A portion of the boundary between the States of Louisiana and Mississippi common to the Parish of Concordia, Louisiana, and the County of Adams, Mississippi, is in dispute.

2. This boundary dispute between the States mentioned is subject to the exclusive original jurisdiction of the Supreme Court of the United States.

3. An action is presently pending in the United States District Court, Western Division of the Southern District of Mississippi, entitled *Avery B.*

Dille, Jr. vs. Pruet and Hughes Company, (A Partnership), et al, Civil Action No. W79-0069(R), wherein, as shown by Exhibit "B" annexed to the attached complaint, complainant in said civil action is claiming ownership of a portion of lands involved in this boundary dispute contrary to the continued assertion of jurisdiction, dominion and control of said area by the State of Louisiana under its inherent sovereignty.

4. The above referenced action was originally filed in the Chancery Court of Adams County, Mississippi as No. 28,592 on the docket of said Court on June 20, 1979, but was removed by the defendants to federal court on July 20, 1979 all as more fully appears in Exhibit, "C."

WHEREFORE, the State of Louisiana respectfully prays that this Honorable Court take original jurisdiction and grant to the plaintiff leave to file its complaint in this Court, and that this Honorable Court issue an order directed to the United States District Court, Western Division of the Southern District of Mississippi placing in abeyance all proceedings in the action entitled, *Avery B. Dille, Jr. vs. Pruet and Hughes, (A Partnership), et al*, Civil Action No. W79-0069(R), pending the conclusion and determination of the matter set forth in this Complaint, and further prays for such orders and process as the Court may deem proper in pursuance of the annexed complaint and application for order.

Respectfully submitted,

/s/ William J. Guste, Jr.
WILLIAM J. GUSTE, JR.
Attorney General
State of Louisiana

GARY L. KEYSER
DAVID C. KIMMEL
Assistant Attorneys General

December
~~October~~, 1979

No. _____ Original

**In The
Supreme Court of the United
States**

OCTOBER TERM, 1979

STATE OF LOUISIANA,

Plaintiff,

V.

STATE OF MISSISSIPPI, ET AL

Defendants

**COMPLAINT AND APPLICATION FOR
STAY ORDER**

The State of Louisiana, appearing herein through the Honorable William J. Guste, Jr., its Attorney General, acting pursuant to the authority and powers vested in him by Article IV, Section 8 of the Louisiana Constitution, instituted this original action against the State of Mississippi, and makes party hereto the following citizen of the State of Mississippi, namely, Avery B. Dille, Jr., an adult resident and citizen of Adams County, Mississippi, and for its cause of action, states:

I.

The original jurisdiction of this Court is invoked under Article III, Section 2, Clause 2 of the Constitution of the United States and Par. (a) Section 1251, Title 28, United States Code Annotated.

II.

The State of Louisiana was admitted into the Union of the United States of America by the Act of Congress found in chapter 50 of the United States Statutes at Large, vol. 2, page 701, approved April 8, 1812, and therein the boundaries of the said State of Louisiana, in the preamble of said Act, were described as follows:

“Whereas, the representatives of the people of all that part of the territory or country ceded, under the name of ‘Louisiana’ by the treaty made at Paris, on the thirtieth day of April, one thousand eight hundred and three (8 Stat. at L. 200), between the United States and France, contained within the following limits, that is to say: ‘Beginning at the mouth of the river Sabine; thence, by a line drawn along the middle of said river, including all islands, to the thirty-second degree of latitude; thence due north to the northernmost part of the thirty-third degree of north latitude; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the river Iberville; and from thence along the middle of the said river and lakes Maurepas and Pontchartrain, to the gulf of Mexico; thence bounded by the said gulf to the place of beginning, including all islands within three leagues of the coast’ ”

III.

By the Act of Congress found in the United States Statutes at Large, vol. 2, p. 708, chap. 57, approved April 14, 1812, additional territory was

added to the then-existing State of Louisiana which additional territory was described in the following language:

"Beginning at the junction of the Iberville with the river Mississippi; thence, along the middle of the Iberville, the river Amite, and of the lakes Maurepas and Pontchartrain to the eastern mouth of the Pearl River; thence up the eastern branch of Pearl River to the thirty-first degree of north latitude; thence along the said degree of latitude to the river Mississippi; thence down the said river to the place of beginning, shall become and form a part of the said state of Louisiana. . ."

IV.

The territory lying adjacent to, and to the eastward of the State of Louisiana, is the State of Mississippi, which latter state was admitted into the Union of the United States of America by the Act of Congress found in the United States Statutes at Large, vol. 3, chap. 23, page 348, approved March 1, 1817, whereby the inhabitants of the western part of the then-Mississippi territory were authorized to form for themselves a state constitution and to be admitted into the Union, the boundaries of the then-to-be-created state being described as follows:

"Beginning on the river Mississippi at the point where the southern boundary line of the State of Tennessee strikes the same; thence east along the said boundary line to the Tennessee River; thence up the same to the mouth of Bear

Creek; thence by a direct line to the northwest corner of the county of Washington 'Alabama'; thence due south to the gulf of Mexico; thence westwardly, including all the islands within six leagues of the shore to the most eastern junction of Pearl River with lake Borgne; thence up said river to the thirty-first degree of north latitude; thence west along the said degree of latitude to the Mississippi River; thence up the same to the beginning."

V.

The effect of this legislation, as to the eastern boundary of the State of Louisiana, was to retain the channel or thread, sometimes known as the thalweg, of the Mississippi River as the original eastern boundary, as far south as the 31st degree of north latitude. Such original eastern boundary from the northeast tip of the State of Louisiana to said 31st degree of north latitude is common with the State of Mississippi.

VI.

Under the law of Louisiana, the State of Louisiana owns the bed of the Mississippi River to the boundary line of the States of Louisiana and Mississippi. Under the law of the State of Mississippi, the riparian owner owns to the boundary line between said states. This Supreme Court of the United States has original jurisdiction of suits to determine the boundaries between states, and of parties adversely asserting title to the property of a state.

VII.

Until recently the primary interest in the determination of the exact boundary line in the Mississippi River between the two states has been as to navigation and fishing rights, and to masses of land where an avulsion has taken place. The discovery and development of subsurface oil and gas has now raised a new and different right and poses to the states involved, substantial and complicated problems.

VIII.

On July 8, 1970, the State of Louisiana, through its Mineral Board, executed an oil, gas and mineral lease to Dave Gammill, designated as Louisiana State Lease No. 5544, covering and affecting the following described lands, located in Concordia Parish, Louisiana:

All of the lands now or formerly constituting the beds and bottoms of the Mississippi River and of all other rivers, creeks, streams, bayous, lagoons, lakes, bays, coves, inlets and any other water bottoms and any arm or tributaries of such water bodies belonging to the State and any other water courses, beds and bottoms situated wholly or partially within the following described area, to-wit:

Beginning at the Northwest corner of Section forty-six (46), Township five (5) North, Range Nine (9) East, Concordia Parish, Louisiana, go East along the Northern boundaries of Sections forty-six, forty-five and forty-four (46, 45 and 44) of the said Township and Range and along an extension of such line to the Northeasterly corner of Section forty-

two (42), Township five (5) North, Range nine (9) East, thence in a Southeasterly direction along the boundary between Sections forty-one and forty-two (41 and 42), Township five (5) North, Range nine (9) East, and along a projection of such Easterly boundary to the intersection of such projected line with Longitude thirty-one (31) degrees, twenty-five (25) minutes North; thence due East to the boundary between the State of Louisiana and the State of Mississippi; thence downstream along the boundary between the States of Louisiana and Mississippi, following the meanderings thereof to a point determined by the intersection with the said state boundary of a line obtained by extending easterly the Southern boundary of Section Thirty-nine (39), Township four(4) North, Range eight (8) East, Concordia Parish, Louisiana; thence West along the line determined by extension of the Southern boundary of the said Section thirty-nine (39), Township four (4) North, Range nine (9) East; thence North along the West boundary of Range nine (9) East to the point of beginning, all as more fully shown on a plat on file in the State Land Office of the State of Louisiana.

A true and correct copy of said oil, gas and mineral lease is herewith attached marked Exhibit "A" hereto and made a part hereof as fully as though herein copied. Said lease is recorded in Book 30, Page 113, Document No. 110439, in the records of Concordia Parish, Louisiana.

IX.

The initial consideration for the execution of said lease was the bonus of \$8,060.00. The primary term of the lease was for three years and the an-

nual rental payment was fixed at \$4,030.00. By instrument dated December 1, 1970, Pruet and Hughes Company became an owner and operator of said lease which instrument is of record in Conveyance Book 35, Folio 151, in the records of Concordia Parish, Louisiana.

X.

Said lease has been maintained by Pruet and Hughes Company and its successors by the payment of the delay rentals and by drilling and obtaining production from said lease, and by the payment of the one-sixth royalty to the State of Louisiana.

XI.

Pursuant to the aforementioned instrument, Pruet and Hughes Company directionally drilled a well (hereinafter referred to as State of Louisiana Well No. 3) from a surface location in Adams County, Mississippi to a point in the State of Louisiana said well being located as follows, to-wit:

From the corner common to Sections 15, 16 and 53 (most westerly corner of Section 15), T8N - R10E, Concordia Parish, Louisiana, go South for 13,212.3 feet; thence East at right angles for 4349.7 feet to bottom hole location in Accretions, T8N - R10E, Concordia Parish, Louisiana, bottom hole location N 60° 53' W for 1966 feet from the surface location.

The bottom hole of said well was then and ever since has been within the confines of the State of Louisiana. Said State of Louisiana Well No. 3 began to produce oil in commercial quantities on or

about January 15, 1972, and has continued to produce oil down to the present.

XII.

The State of Louisiana, through its regulatory authority, has permitted and regulated the drilling of said well, and since its completion, has continued to regulate the production thereof, supervising its allowables, requiring production reports, issuing Certificate of Compliance, creating a drilling unit therefor and otherwise exercising complete jurisdiction over the same. Pursuant to the terms and provisions of said Exhibit "A," royalties have been paid to the State of Louisiana as required by said lease.

XIII.

On the 20th day of June, 1979, there was filed in the Chancery Court of Adams County, Mississippi a complaint styled *Avery B. Dille, Jr. vs. Pruet & Hughes Company, (a Partnership), Henry W. Dille, Richard T. Dille, Chesley Pruet, Robert Mosbacher, Bruce Sciscoe, Dudley J. Hughes, Verne L. Culbertson, Benton R. Vernon, Jr., Dave Gammill, Bates Oil Corporation, R. E. Williams and the State of Louisiana*, and numbered 28,592 on the docket of said Court, a true and correct copy of said Complaint being herewith attached and marked Exhibit "B" and made a part hereof as fully as though copied. As can be seen by Exhibit "B," the complaint seeks to establish a boundary line between the States of Louisiana and Mississippi as in paragraph XVI, where complainant alleges that "the

State of Louisiana being made the party hereto for the purpose of having Complainant's boundary line determined as being established by the Mississippi - Louisiana State line which is the middle of the navigable channel of the Mississippi River."

XIV.

By virtue of the provisions of the Mississippi Code of 1972, Section 53-1-5 and Section 53-1-17, the Mississippi State Oil and Gas Board was created and given broad and specific powers and authority to prevent waste, foster, encourage, and provide conservation of crude oil and natural gas and products thereof, and protect the vested, coequal and correlative rights of owners of crude oil and natural gas. These powers embrace the authority to regulate the day-to-day production practices stemming from the drilling and operation of oil and gas wells in the State of Mississippi, the production of oil therefrom, its measurement, and the issuance of certificates of compliance to purchasers.

XV.

Both the States of Mississippi and Louisiana impose severance taxes on oil production from lands located within their respective boundaries and ad valorem taxes on equipment and facilities used in drilling and production operations. The State of Mississippi imposes contractors' drilling taxes on such operations, and documentary taxes. As a consequence, the State of Mississippi, in addition to the protection due its citizens in the exercise of their alleged ownership and proprietary

rights in and to lands located within said state, has a vested interest in the determination of the bottom hole location of State of Louisiana Well No. 3 and oil being produced therefrom.

XVI.

The area leased to Dave Gammill, described in Exhibit "A" hereto, and now operated by Pruet and Hughes Company, consists of three hundred and ten (310) acres, as Tract 11645, and is located just above the Giles Bend Cut-Off. Prior to the year 1933 and for many years earlier, the Mississippi River traveled in a loop to the west around what is known as Cowpen Point, Mississippi. For numerous reasons, including flood control and navigation, the United States Corps of Engineers constructed, in 1933, a cut-off across the neck of Cowpen Point. Work was done on this cut-off during the year of 1933 and intermittently during 1934 through 1938 until, as a result of yearly high water, avulsive action took place effectively eliminating Giles Bend as the main course of the Mississippi River.

XVII.

As a result of the construction of the Giles Bend Cut-Off by the United States Corps of Engineers and the avulsive activity of the Mississippi River, a permanent state boundary was established in the old bed of the Mississippi River. As a result of the permanence of said state boundary, the rights of both Louisiana and Mississippi as well as its citizens have become vested.

XVIII.

Nevertheless, complainant in Exhibit "B," alleges that the thalweg of the Mississippi River has migrated to the west, thereby obliterating the said permanent boundary and placing State of Louisiana Well No. 3 within the State of Mississippi.

XIX.

The State of Louisiana avers that the thalweg of the Mississippi River has not migrated to such an extent that it has placed State of Louisiana Well No. 3 within the confines of the State of Mississippi and, in any event, said migration can have no effect upon the permanent state boundary as established in the old meander of the Mississippi River.

XX.

Consequently, in the necessary and essential exercise of sovereign rights, the exact location of the boundary line between Mississippi and Louisiana in the area involved becomes of major and substantial significance to the respective states, in view of the great value of oil, gas and other minerals now known to exist at their respective borders. Heretofore, it has not been necessary to determine with preciseness the exact location of such boundary line.

XXI.

As a direct and current result of the filing of the Complaint made Exhibit "B" hereto, extremely

valuable rights owned by the State of Louisiana have been placed in jeopardy. At the same time, the now-known existence of such valuable property below the surface of the Mississippi River opens many avenues of possible conflict between the two states, growing out of the need for regulatory practices through their respective agencies in drilling, operating, and producing of oil and gas, so that these resources may be conserved and at the same time the rights of all parties in any common pool or reservoir be recognized and protected.

XXII.

On July 20, 1979 the defendants named in *Dille vs. Pruet and Hughes Company, et al* filed a motion to remove the said case to the United States District Court for the Southern District of Mississippi, Western Division which suit is numbered W79-0069(R). A true and correct copy of said removal is attached hereto and made a part hereof and is marked Exhibit "C."

XXIII.

The property rights and the sanctity of the boundary of the State of Louisiana are inextricably involved in the private litigation thus instituted and pending in the United States District Court for the Western Division of the Southern District of the State of Mississippi, and said Court is not the forum proper to such determinations. Nor is the State of Louisiana required to submit its title to said Court, nor should it be. The decision of

the Supreme Court of the United States herein will be conclusively binding on all private parties and it alone has the power to fix and determine the boundary lines herein set forth. The suit of *Dille vs. Pruet and Hughes Company, (A Partnership), et al* should be stayed by Order of this Court until a final judgment herein can be had, and application is hereby made by the State of Louisiana for an Order to be issued by this Court, directed to the United States District Court, Western Division of the Southern District of Mississippi, staying all proceedings in said suit.

XXIV.

The jurisdiction of the Supreme Court of the United States in boundary disputes between States is exclusive and original and accordingly, it is appropriate that the suit of *Dille vs. Pruet and Hughes Company, (A Partnership), et al* be stayed and all parties thereto be served with a copy of the Stay Order herein applied for, and be given the opportunity to assert such interests as they may have in this action.

WHEREFORE, PREMISES CONSIDERED, Complainant prays:

1. That process issue herein to all parties as required by law.

2. That an order be issued promptly to the United States District Court for the Western Division of the Southern District of the State of Mississippi, staying any further proceedings in the suit of *Dille vs. Pruet and Hughes Company (A Partnership), et*

al C.A. No. W79-0069(R), on the docket of said Court, until final judgment has been rendered herein or until further order of this Court.

3. That, on final hearing hereof, the eastern boundary line of the State of Louisiana at Giles Bend Cut-Off, including the permanent boundary as established in Giles Bend, should be recognized as fixed and determined, the Court to further adjudicate that the State of Louisiana Well No. 3, herein before specifically described, is and has been since its completion on or about January 15, 1972 is and has been located within the State of Louisiana.

4. That the claim of right and title asserted by Avery B. Dille, Jr. in and to the above said well and the proceeds thereof be herewith cancelled and forever held for naught.

And for such other and further relief, general or special, as may be proper.

Respectfully submitted,

/s/ William J. Guste, Jr.
WILLIAM J. GUSTE, JR.
Attorney General
State of Louisiana

GARY L. KEYSER
DAVID C. KIMMEL
Assistant Attorneys General

December
October, 1979

**BRIEF OF THE STATE OF LOUISIANA IN SUP-
PORT OF ITS MOTION FOR LEAVE TO FILE
ORIGINAL SUIT AND FOR STAY ORDER**

OPENING STATEMENT

As set forth in the Motion with Complaint annexed herein filed by the State of Louisiana, the proposed suit involves a determination of the exact location of a portion of the eastern boundary line of the State of Louisiana common with the State of Mississippi and the cancelling of the claims of certain named private parties to property rights of the State of Louisiana under the bed of the Mississippi River.

I.

JURISDICTION OF SUITS BETWEEN STATES

The Supreme Court of the United States has exclusive original jurisdiction of all controversies between states. As set forth in Par. 2, Sec. 2, Article III of the Constitution:

“In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction.”

As set forth in Section 1251, Title 28, U.S.C.A.(a);

“(a) The Supreme Court shall have original and exclusive jurisdiction of all controversies between two or more states.”

II.

THE MOTION FOR LEAVE TO FILE SHOULD BE GRANTED

Jurisdiction vests since this is a suit between the States of Louisiana and Mississippi in which private persons are also proper parties due to the nature of the boundary dispute.

The value of the property involved is great. The rights of the State of Louisiana are real and substantial. The controversy exists and is justiciable. The Supreme Court of the United States is the only forum to settle this dispute, fix the boundary line between the states, and determine finally the rights of the parties. See *Florida v. Georgia*, 17 How. 478 (1854); *Oklahoma v. Texas*, 158 U.S. 574, 66 L. Ed 771, 42 Sup. Ct. 406 (1922).

III.

POWER TO STAY

In the aid of its original jurisdiction, the Supreme Court has the power and authority to issue stays not only inherently but also by Sec. 1651, Title 28 U.S.C.A.(a) which reads:

“(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.”

See *Ex Parte Republic of Peru*, 318 U.S. 578, 87 L. ed 1014, 63 S. Ct. 793 (1943).

As stated in *Landis v. North American Co.*, 299 U.S. 248, 81 L. ed. 153, 57 S. Ct. 163 (1936):

"Apart, however, from any concession, the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.

Respectfully submitted,

/s/ *William J. Guste, Jr.*
WILLIAM J. GUSTE, JR.
Attorney General
State of Louisiana

GARY L. KEYSER
DAVID C. KIMMEL
Assistant Attorneys General

APPENDIX

EXHIBITS:

- "A"—Oil, gas and mineral lease from the State of Louisiana to Dave Gammill (State Lease No. 5544), dated July 8, 1970.
- "B"—Complaint in case of *Avery B. Dille, Jr. vs. Pruet and Hughes, (A Partnership), et al*, No. 28,592, Chancery Court of Adams County, Mississippi.
- "C"—Case of *Avery B. Dille, Jr. vs. Pruet and Hughes Company, (A Partnership), et al*, C.A. No. W79-0069(R), Western Division of the Southern District of Mississippi.

PROOF OF SERVICE

The undersigned, counsel for the State of Louisiana, and a member of the Bar of the Supreme Court of the United States, hereby certifies that copies of the foregoing Motion of the State of Louisiana for leave to file original action with Complaint and Brief annexed, have been served by depositing same in a United States mailbox with postage prepaid, addressed to:

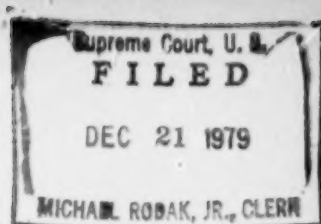
HON. A. F. SUMMERS
Attorney General
State of Mississippi
State Capitol
Jackson, Mississippi 39205

MR. M. EMMETTE WARD
Ward, Martin, Terry and Way
Attorneys at Law
Post Office Box 789
Vicksburg, Mississippi 39180
Attorney for Avery B. Dille, Jr.

this 19th day of December ~~October~~, 1979.

19 Gary L. Keyser
GARY L. KEYSER
Assistant Attorney General

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No. Original



**In the
Supreme Court of the United States**

October Term, 1979

STATE OF LOUISIANA,

Plaintiff,

V.

STATE OF MISSISSIPPI, ET AL.

Defendants

**APPENDICES A, B AND C TO
MOTION TO FILE COMPLAINT, COMPLAINT
AND APPLICATION FOR STAY ORDER,
AND BRIEF IN SUPPORT OF MO-
TION, COMPLAINT AND APPLI-
CATION FOR STAY ORDER**

WILLIAM J. GUSTE, JR.
Attorney General
State of Louisiana
State Capitol
Baton Rouge, Louisiana 70804

**GARY L. KEYSER
DAVID C. KIMMEL**
Assistant Attorneys General
State of Louisiana

July 13, 1990
A

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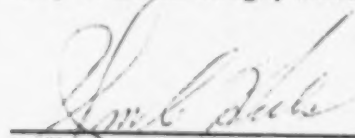
AUG 14 1979

EXHIBIT A
CERTIFICATE

OFFICE OF THE
ATTORNEY GENERAL
LANDS AND NATURAL RESOURCES
SECTION

I, WILLIAM C. HULS, Secretary of the Department of Natural Resources and Custodian of the Records of the State Mineral Board as maintained in the Office of Mineral Resources, do hereby certify that the attached are true copies of the original records of the State Mineral Board.

Signed this day of August 9, 1979, in the
City of Baton Rouge, State of Louisiana.



William C. Huls, Secretary of the Department of
Natural Resources

WHEREAS, bids for the lease of the above described land for oil, gas, and mining have on the hereinafter described property, and,

WHEREAS, in response to the necessary regular advertisements, bids were received and duly opened in the City of Baton Rouge, Parish of East Baton Rouge, State of Louisiana on the 4th day of July 1970, at a meeting of the State Mineral Board of the State of Louisiana, and,

WHEREAS, by resolution duly adopted, the State Mineral Board accepted the bid of
Cave Gammill

whose mailing address is **Suite 408, 236 Building, P. O. Box 92, Jackson, Mississippi 39205**

(hereinafter referred to as "Lessee") as being the most advantageous to the State of Louisiana;

NOW, THEREFORE, be it known and remembered that the State Mineral Board of the State of Louisiana (hereinafter referred to as "the Board"), acting under authority of said Chapter 2, Title 30 of the Louisiana Revised Statutes of 1950, as amended, and other applicable laws, and acting for and in behalf of the State of Louisiana, as Lessor, does hereby lease, let, and grant exclusively unto the said Lessee, and Lessee's successors and assigns, the below described property for the purpose of exploring by any method, including but not limited to, geophysical and geological exploration for formations or structures and prospecting and drilling for, mining, and producing sulphur, potash, oil, gas, and any other liquid or gaseous hydrocarbon minerals. In connection therewith Lessee shall have the right to use so much of the property as may be reasonably necessary for such operations, including but not limited to: storing minerals and fluids in facilities or by means other than subsurface storage; laying pipelines, dredging canals; and building roads, bridges, docks, tanks, power stations, telephone and electric transmission lines, houses for employees, and other structures and facilities. The leased property, situated in the Parish of **Concordia**, State of Louisiana, is more fully described as follows:

ENTIRE TRACT NO. 11645, Said Tract No. 11645 being described as follows:

TRACT 11645 - Concordia Parish, Louisiana

All of the lands now or formerly constituting the beds and bottoms of the Mississippi River, and all other water bodies of every nature and description and all islands and other lands formed by accretion or reliction, except tax lands, owned by and not under formal lease from the State of Louisiana on April 6, 1970, situated in Concordia Parish, Louisiana, within the following described boundaries: That portion of the bed and bottoms of the Mississippi River belonging to the State of Louisiana, being bounded on the North by an East-West line having a Lambert Plane Coordinate of Y = 352,400.00 and on the South by an East-West line having a Lambert Plane Coordinate of Y = 347,200.00, Concordia Parish, Louisiana, estimated to contain approximately 310 acres, all more fully shown outlined in red on a plat on file in the State Land Office. All bearings are based on Louisiana Lambert Plane Coordinate System (North Zone).

(\$9,050.00)

Dollars

as the full and adequate consideration for every right granted hereunder and not as mere rental for a period.

2. Subject to the other provisions hereof this lease shall be for a term of **three (3)** years from the date hereof (hereinafter called "primary term") and as long thereafter as sulphur, potash, oil, gas, or any other liquid or gaseous hydrocarbon mineral is produced hereunder in paying quantities or any operation is conducted, payment is made, or condition exists, which continues this lease in force, according to its terms.

3. If actual drilling or mining operations are not commenced hereunder on the leased premises in good faith on or before one year from the date hereof, this lease shall then terminate unless Lessee on or before the expiration of that period shall pay or tender to the Lessor the sum of **Four Thousand, Thirty and No/100ths (\$4,030.00)**

Dollars

(hereinafter called "rental") which shall extend for twelve (12) months the time within which drilling or mining operations may be commenced. Thereafter, annually, in like manner and upon like payments or tenders, all of Lessee's rights hereunder may be maintained without actual drilling or mining operations for successive periods of twelve (12) months each during the primary term. Payment or tender of rental may be made by check or draft of Lessee made payable to the order of Register, State Land Office and delivered or mailed by registered mail to the Register on or before the rental paying date.

4. (a) If on any rental paying date actual drilling or mining operations are being conducted on or production in paying quantities is being obtained from the leased premises, no rental shall be due for the annual rental period then commencing; if actual drilling or mining operations be abandoned at any time within a period of ninety (90) days prior to any rental paying date or if production ceases within such ninety (90) days, Lessee shall have a period of ninety (90) days after the date of such abandonment of operations or cessation of production within which to commence or resume production, commence actual mining operations or actual drilling operations on the leased premises, or make the rental payment, and the commencement or resumption of production, commencement of such operations, or payment of rental within the ninety (90) day period shall have the same effect as though resumed, commenced, or paid on or before the rental paying date.

(b) If at the expiration of the primary term sulphur, potash, oil, gas, or any other liquid or gaseous hydro-

within thirty (30) days prior to the expiration of the primary term) to commence actual drilling, mining, or reworking operations on the leased premises in an effort to make the premises produce any such products for a period of ninety (90) days from the expiration of the primary term. If the leased premises do not produce any such products for a period of ninety (90) days from the expiration of the primary term, this lease shall terminate on the date of such expiration. If the leased premises do produce any such products for a period of ninety (90) days from the expiration of the primary term, this lease shall continue in force so long as any of them is produced hereunder in paying quantities or this lease is otherwise being maintained as herein provided.

(c) This lease may be maintained in force by directional drilling operations (deviation from vertical), in which event actual drilling operations shall be considered to have commenced on the leased premises when the drill stem penetrates beneath the surface of the leased premises.

(d) Wherever used in this lease, "actual drilling operations" means actual drilling (commenced by spudding in) of a new well, including sulphur wells, or the good faith deepening, sidetracking, or the plugging back or attempted recompletion in a separate interval of an existing well (all such operations being commenced by actual downhole operations); "mining operations" means actual excavation of a mine or quarry; and "reworking operations" means reconditioning, cleaning out, or otherwise attempting in good faith to establish, increase, or restore production in an existing well by downhole operations. Once commenced, any such operations shall be deemed to continue so long as they are conducted in good faith without lapse of more than ninety (90) days. Actual drilling operations or mining operations shall be deemed to terminate on the last day actual operations of any kind, such as drilling, testing, or installation of equipment are conducted in good faith for the purpose of attempting to discover minerals or to complete a well or mine as a producer. Reworking operations shall be deemed to terminate on the last day such operations are conducted in good faith for the purpose of establishing, increasing, or restoring production.

5. The obligations set forth in this Article are applicable only to wells drilled on (1) property which is not owned by Lessor or (2) property in which Lessor has no interest, and which in either instance is not part of a pooled unit containing all or any portion of the leased property. Such property is hereinafter described in this Article as "adjoining property."

(a) If at any time during or after the primary term there is completed on adjoining property a well located within six hundred and sixty (660) feet of the leased premises (or within any spacing or pooling unit distance greater than 660 feet established by the Commissioner of Conservation) and such well produces oil, gas, or other liquid or gaseous hydrocarbons in paying quantities for twenty (20) days (which need not be consecutive) during any period of thirty (30) days, or produces its monthly allowable during such thirty (30) day period, rebuttable presumptions will arise: (1) that the leased premises are thereby being drained; (2) that the leased premises are not being reasonably protected from drainage by any well or wells on the leased premises or land pooled therewith; and (3) that an offsetting well on the leased premises would be economically feasible. If Lessee is the operator of or has a working interest in the adjoining property, Lessee will begin operations for the drilling of a well on the leased premises upon expiration of ninety (90) days after the end of the above thirty (30) day period. In all other cases Lessee shall be required to begin operations only upon expiration of ninety (90) days after receipt of written notice from the Board of the expiration of the above thirty (30) day period. No offset well shall be necessary if, on or before the maturity date of the offset obligation or any deferred maturity date as hereinafter provided, any of the stated presumptions is rebutted or a unit for the well in question embracing all or part of the leased premises is formed by agreement with the Board or by order of the Commissioner of Conservation.

In lieu of commencing operations for an offset well as above provided, Lessee may, at Lessee's option, commence compensatory payments equal to the royalties herein provided, computed on one-half ($\frac{1}{2}$) of the oil, gas, or other liquid or gaseous hydrocarbons produced by the well in question on and after the date operations would have otherwise been commenced, value to be determined in accordance with the provisions of Article 6 of this lease. Such payment may be commenced on or before sixty (60) days after the date operations would otherwise have been commenced, but shall include any accrued compensatory payments. Thereafter, payments shall be due monthly in accordance with Article 6(i). Lessee shall not be in default in either commencing compensatory payments or in making further payments as above provided if despite due diligence Lessee is unable timely to obtain the production information on which such payments are to be based. In any such case, however, Lessee must on or before the due date of the payments, notify the Board in writing of Lessee's inability to make such payment, the reasons therefor, and Lessee's intent to make such payment at the earliest reasonable time. Compensatory payments may be continued, at Lessee's discretion, for not more than one year from the date on which offset operations would otherwise have been commenced. At the end of that time, or within 30 days from the end of any lesser period for which payments are made, Lessee shall comply with this offset obligation if the producing well continues to produce in paying quantities or to produce its allowable and the other conditions making this obligation operative are existent. The right to make compensatory payments is intended to permit Lessee to evaluate further the producing well, and the making of such payments shall not of itself be sufficient to maintain this lease in force and effect; however, the making of any such payments shall not prejudice Lessee's right to rebut any of the above enumerated presumptions.

(b) In addition to the specific offset drilling obligation above provided, Lessee agrees to drill any and all wells necessary to protect the leased premises from drainage of oil, gas, or other liquid or gaseous hydrocarbons by a well or wells on adjoining property or to take any other steps reasonably necessary to protect the leased premises

begin operations for the drilling of a well on the leased premises or to take such other steps as may be reasonably necessary to protect the leased premises upon expiration of thirty (30) days from the time Lessee knows or reasonably should know that drainage is occurring by all other wells. Lessee shall be obligated to begin such operations within the time specified in the preceding sentence.

Lessee shall be obligated to begin the drilling of a well on the leased premises or to take such other steps as may be reasonably necessary to protect the leased premises upon expiration of thirty (30) days from the time Lessee knows or reasonably should know that drainage is occurring by all other wells. Lessee shall be obligated to begin such operations within the time specified in the preceding sentence.

6. Lessee shall pay to Lessor as royalty:

(a) **One-Sixth (1/6th)** of the value, as hereinafter provided, of all oil, including condensate and other liquid hydrocarbons, produced and saved or utilized by methods considered ordinary production methods at the time of production. The value of such oil shall not be less than the average price for oil of like grade and quality posted for the field in which this lease is situated. If there is no price posted for the field in which this lease is situated, the value of such oil shall be not less than the average of prices posted for oil of like grade and quality for the three fields nearest to the field in which this lease is situated for which such prices are posted. If Lessee enters into an oil sales contract which, at the time of execution, provides for a price equal to or in excess of the appropriate average price referred to in the two preceding sentences, the price payable under the terms of the contract at the time such oil is run shall be the value of such oil, even though the appropriate average changes during the life of the contract; however, any such contract must have been prudently negotiated under the circumstances existing at the time of execution. If Lessee is unable, after diligent effort, to sell such oil for a price equal to or in excess of the appropriate average price and Lessee consequently negotiates a contract to sell such oil to an independent party at a lesser price, the value of such oil for the duration of any such contract (but not in excess of one year) shall be the price received by Lessee under such contract.

Lessee shall not make any deduction whatsoever for the cost of any operation, process, facility, or other item considered to be a production function or facility at the time such oil is run. Without limiting the foregoing sentence and without regard to classification as production costs or otherwise, the following costs are not to be deducted from the value of production: (1) costs incurred for gathering or transporting production in the field; (2) costs incurred for handling, treating, separating, or in any way processing production to make it marketable by methods considered ordinary at the time such oil is run; and (3) the cost of storage on the lease or in the field. The performance of any producing function or any function mentioned in clauses (2) and (3) of the foregoing sentence at a commingled facility in or outside the field in which this lease is situated shall not make the cost of any such function deductible.

If Lessee delivers such oil at a point outside the field in which this lease is situated, Lessee may deduct from the value of such oil the actual costs of transportation from the field to the point of delivery by means of facilities belonging to an independent party. If such transportation is by means of facilities owned by one other than an independent party, Lessee may deduct the actual cost of such transportation, but only if such cost is no greater than the fair value of the services performed; if actual cost is greater than fair value, the fair value shall determine the amount deductible; however, if the facilities used are regulated as a common carrier by a state or federal regulatory agency, the authorized tariff chargeable for the services rendered and paid by Lessee shall be deemed the fair value of such services. If such transportation is by means of any facilities owned by Lessee, Lessee may deduct from the value of production a reasonable sum for such services, computed as follows: the amount deductible shall include only (1) the direct cost of operation and maintenance, including cost of labor, direct supervision, fuel, supplies, ordinary repairs, and ad valorem taxes; and (2) depreciation of the facility computed over the estimated life of the field.

If Lessee receives any compensation for any function or process for which Lessee is responsible to Lessor without right to deduct costs, including, but not limited to, (1) handling, gathering, or transporting such oil, or (2) treating or processing such oil by ordinary methods to make it marketable, the amount of such compensation shall be added to the value of such oil when computing royalties. If Lessee is deducting costs for any functions for which he is also receiving compensation, deductions may be made only to the extent that they are in excess of any such compensation.

(b) **One-Sixth (1/6th)** of the value as hereinafter provided, of all gas, including casinghead gas, produced and saved or utilized by methods considered as ordinary production methods at the time of production. When such gas is sold by Lessee to an independent party under an arms' length contract prudently negotiated under the facts and circumstances existing at the time of its execution, the value of such gas and of gas utilized by Lessee shall be the price received by Lessee for such gas under the contract. If the purchaser is not an independent party but the contract would have been considered prudently negotiated under the facts and circumstances existing at the time of its execution if made with an independent party, then the value of the gas shall be the price received by Lessee under the contract; if the contract would not have been considered prudently negotiated if made with an independent party, the value of such gas shall be its fair value at the time of production but not less than the average of the prices paid for gas of like kind and quality from the field from which such gas is being produced, or if no gas is being sold from that field, the average of prices paid for gas of like kind and quality in the three nearest fields in which gas of like kind and quality is being sold, all comparisons to be with contracts made in the same market (either interstate or intrastate) and for the sale of similar quantities of gas. In all other cases the value of such gas shall be the average stated in the last clause of the preceding sentence.

Following costs are not to be deducted from the value of production: (1) cost incurred for gathering or transporting gas from the field; or (2) cost incurred for dehydrating, desulfurizing, or in any way processing production to make it marketable by methods considered efficient at the time such gas is produced. The performance of such operations is optional on the part of the Lessee, and the cost of such operations shall be borne by Lessee or a person for transportation to a point of delivery outside the field.

If Lessee delivers such gas at a point outside the field in which the lease is situated, Lessee may deduct from the value of such gas a reasonable sum for transportation from the field to the point of delivery by means of facilities belonging to an independent party, not in excess of actual cost. If such transportation is by means of facilities owned by one other than an independent party, Lessee may deduct the actual cost of such transportation, but only if such cost is no greater than the fair value of the services performed; if actual cost is greater than fair value, the fair value shall determine the amount to be deducted. If such transportation is by means of any facilities owned by Lessee, Lessee may deduct from the value of production a reasonable sum for such services, computed as follows: the amount deductible shall include only (1) the direct cost of operation and maintenance, including cost of labor, direct supervision, fuel, supplies, ordinary repairs, and ad valorem taxes, and (2) depreciation of the facility computed over the estimated life of the field.

If Lessee receives any compensation for any function or process for which Lessee is responsible to Lessor without right to deduct costs, including but not limited to, (1) gathering or transporting such gas or (2) dehydrating, desulfurizing, or in any way processing production to make it marketable, the amount of such compensation shall be added to the value of such gas when computing royalties. If Lessee is deducting costs for any functions for which he is also receiving compensation, deductions may be made only to the extent they are in excess of any such compensation.

(c) In addition to the separation of condensate or other liquid hydrocarbons from gas by ordinary production methods (as to which Lessor shall receive royalties above provided and for which separation no charge may be made by Lessee), gas produced hereunder, including casinghead gas, may be processed in a gasoline or other extraction plant in or serving the field, and products may be recovered therefrom either directly by Lessee or under contracts executed by Lessee. If Lessee enters into a contract for the processing of gas with an independent party or parties under which such party or parties retain in kind a portion of the products recovered from or attributed to such gas as consideration for processing, Lessee shall pay the royalty provided for gas in paragraph 6(b) based on the value, as hereinafter determined, of Lessee's share of such products under such contract. In all other cases Lessee shall pay the royalty provided for gas in paragraph 6(b) based on the value, as hereinafter determined, of the total products recovered, after deducting therefrom the costs of processing as specified below.

The value of such products (or Lessee's share thereof) in the cases above provided shall be the price or prices received by Lessee if sold under a contract or contracts prudently negotiated under the facts and circumstances existing at the time of execution with an independent party or parties. If such products are not sold to an independent party but are sold under a contract which would have been considered prudently negotiated if executed with an independent party, the value of such products (or Lessee's share thereof) shall be the price or prices received by Lessee. If such products are not sold to an independent party under a prudently negotiated contract or are sold to one other than an independent party under a contract which would not have been considered prudently negotiated if executed with an independent party, the value of the products shall be their fair market value at the plant at the time sold. The value of any such products (or Lessee's share thereof) not sold under any contracts shall be the fair market value at the plant for such products, or if no products are being sold at the plant, the average of the market values for like products of the same grade and quality at the three nearest plants at which such products are being sold.

When the cost of processing is not met by retention by the processor of a share of the products or in any other case in which Lessee is to deduct from the value of such products the cost of processing, the charges shall be determined as follows: If the gas is processed by an independent party or parties under a contract prudently negotiated under the facts and circumstances existing at the time of execution, the charges deducted shall be those provided in such contract. In all other cases, including processing by those other than an independent party or parties and those in which Lessee itself or in conjunction with others owns the plant, the charges should be determined by contract between Lessee and Lessor. In the absence of such a contract the charges to be deducted shall include only the proportionate part of: (1) the direct cost of operating and maintaining the plant, computed annually, including cost of labor and on site supervision, materials, supplies, and ordinary repairs; (2) plant fuel and shrinkage; (3) depreciation of the plant computed over the life or lives of the field or fields served by the plant, or by such other method as is agreed upon by Lessor and Lessee; and (4) ad valorem taxes.

In all of the cases provided for in this paragraph, Lessor shall be entitled to the royalty for gas provided in paragraph 6(b) of this Article based on the value of Lessee's share of the residue gas sold or otherwise disposed of after processing.

(d) If at any time or times (during or after the primary term) there is on the leased premises a well or wells capable of producing gas in paying quantities, but gas is not being used or marketed therefrom because of the lack of a reasonably market or marketing facilities or governmental restrictions and if this lease is not then being actively maintained by separate operations or production, this lease shall, nevertheless, remain in full force and effect for a period of ninety (90) days after cessation of such production or such operations or the shutting in of such well. If, on or before the expiration of the ninety (90) day period, production or operations shall not have been commenced or resumed, Lessor, in order to maintain the lease in force thereafter, shall commence semi-annual payments to the Lessee at the rate and in the manner provided hereinbelow and thereby maintain the lease in full force and effect during the periods covered by such payments; however, if the ninety (90) day period should expire during the primary term or during any year for which a rental has previously been paid, the Lessee shall not be required until the next anniversary date of the lease to commence such payments.

7. (a) Lessee may surrender all or any portion or portions of the leased premises at any time this lease is in effect and thereby be relieved of all obligations thereafter accruing for this lease as to the portions surrendered; however, no partial release or surrender shall reduce or otherwise affect the amount of rentals provided for in Article 2 of this lease.

(b) Lessee shall retain all acreage around each well capable of producing oil or gas in paying quantities (including gas and around each shut-in well capable of producing gas in paying quantities (including wells drilled under this lease by directional drilling). If any well is then being worked on or being drilled, Lessee shall have the right to complete such operations, and in the event any such operations result in completion of a well capable of producing oil or gas in paying quantities, Lessee may retain acreage around each such well as above provided. Retained acreage around any well shall form as near a square tract as is practical. If any acreage covered by this lease shall have been included in a unit established by the Commissioner of Conservation, or by conventional agreement, or if any such acreage shall have been assigned to a producing or shut-in well under statewide allowable orders of the Commissioner and such acreage is actually being drained by the well or would be drained by it if the well were produced, Lessee may retain all the acreage included in such unit or units or so assigned for allowable purposes.

8. It is further agreed and understood that the rights of Lessee may be assigned or transferred in whole or in part, but no transfer, whether in whole or in part, of the leased premises shall be valid unless such transfer or assignment be approved by the Board.

9. Lessee may, with the consent and approval of the Board, pool or combine the acreage covered by this lease (or any portion thereof) with any other property, lease, or leases (or portions thereof). Operations on or production of minerals from, or the existence of a shut-in gas well on, any portion of a unit, including units created by the Commissioner of Conservation or by conventional agreement, in which all or any part of the leased premises is embraced shall have the same effect under the terms of this lease as if it had occurred on the leased premises.

10. Should Lessee apply or give notice of intent to apply to the Commissioner of Conservation for the creation of any unit or units which would include all or any portion of the leased premises, Lessee shall furnish the Secretary of the Board with a copy of the notice or application, each accompanying unit plat, and all other attached information either at the time the application is filed with the Commissioner or at the time required by applicable orders or regulations of the Commissioner for furnishing such information to any parties entitled to receive it, whichever is earlier. If a unit or units including all or any part of the leased premises are created by order of the Commissioner, Lessee shall submit to the Board a survey plat of each unit or units so created.

11. On request by the Board or authorized members of its staff Lessee shall furnish any or all of the following types of data relating to wells drilled on the leased premises or lands pooled therewith: (1) all wire line surveys in open or cased holes, including, but not limited to, all electrical and radio activity logs, porosity logs of all types, and directional surveys; (2) core descriptions of both sidewall samples and conventional cores; (3) drill stem and production test data; and (4) production data, current and cumulative, including oil, gas, and water production. However, if furnishing any specific type of data among those described in the preceding sentence will require Lessee to release confidential trade information detrimental to its competitive position, Lessee may withhold such specific data for a reasonable time; the term "reasonable time" shall not exceed (1) a maximum period of 18 months for data on wells drilled to a depth of less than 15,000 feet measured from the surface and (2) a maximum period of 2 years (a) for wells drilled to a depth in excess of 15,000 feet measured from the surface, and (b) for Zone 1 wells located on leases bordering the Zone 2 boundary. After the lapse of said reasonable period, Lessee, at its option, shall either release such data or make it available for examination and study by members of the Board's technical staff without releasing it from Lessee's custody. Any information furnished to the Board, or furnished to or examined and studied by the Board's technical staff, shall be retained in confidence. Nothing in this Article shall require that Lessee furnish or permit inspection of any interpretations of any of the types of data referred to above, and nothing herein shall be construed as requiring Lessee to secure any such data solely for the purposes of this Article.

12. Lessee shall have the right during or within one year after the life of this lease to remove all Lessee's property and equipment, including the right to draw and remove all casing.

13. If at any time Lessee is maintaining this lease by actual drilling, reworking, or mining operations or by actual production and Lessee is prevented from continuing or resuming such operations or production by major storm, major flood, or other similar natural disaster or by a major accident such as a blowout, fire, or explosion and if Lessee cannot by reason of any such occurrence maintain this lease on any rental date by continuing any such operations or production or cannot maintain this lease beyond the primary term by continuing such operations or production, this lease shall not terminate and no rental shall be due so long as Lessee is so prevented from continuing or resuming such operations or production and is making diligent efforts to eliminate the effect of such occurrence.

14. If on the date of this lease all or any portion of the leased premises is included in a unit established by order of the Commissioner of Conservation, Lessee agrees to pay royalty on all oil, gas, and other hydrocarbons produced and saved or utilized and attributable to the leased premises from the date of this lease regardless whether all development and operating costs chargeable to the leased premises have been paid.

CONCORDIA PARISH S. L. 5564

13

352,400.00

I. B. N. R. 10-E

TR 11645
310 Acres
JULY, 1970

P. O. I. N. T. R.

147,200.00

CUTOFF

OFFICIAL
DATE 1970
00. 631

EXHIBIT B

In The Chancery Court of Adams County, Mississippi

Avery B. Dille, Jr.

Plaintiff

VS.

No. 28,592

Pruet & Hughes Company, (A Partnership), Henry W. Dille, Richard T. Dille, Chesley Pruet, Robert Mosbacher, Bruce Sciscoe, Dudley J. Hughes, Verne L. Culbertson, Benton R. Vernon, Jr., Dave Gammill, Bates Oil Corporation, R. E. Williams and the State of Louisiana

Defendants

BILL OF COMPLAINT TO ESTABLISH
BOUNDARY LINE AND TO RECOVER OIL
ROYALTIES

NOW COMES, Avery B. Dille, Jr., identical with A. B. Dille, Jr., and Avery Benjamin Dille, Jr., and files this his Bill of Complaint against Pruet & Hughes Company, (a Partnership), Henry W. Dille, identical with Henry Ward Dille, Richard T. Dille, identical with Richard Turner Dille, Chesley Pruet, Robert Mosbacher, Bruce Sciscoe, Dudley J. Hughes, Verne L. Culbertson, Benton R. Vernon, Jr., Dave Gammill, Bates Oil Corporation, R. E. Williams and The State of Louisiana, and would show unto the Court the following:

I

Your Complainant is an adult resident and citizen of Adams County, Mississippi.

II

The Defendant, Henry W. Dille, an adult non-resident of the State of Mississippi, is a citizen of the State of Texas, whose place of residence and Post Office Address is 9544 Desert Ridge Drive, El Paso, Texas 79910.

III

Richard T. Dille, is an adult non-resident of the State of Mississippi, residing in the Republic of France. The place of residence and Post Office Address of the said Richard T. Dille in France is unknown to your Complainant, after diligent search and inquiry, but he does receive mail addressed to him in care of Henry W. Dille, 9544 Desert Ridge Drive, El Paso, Texas 79910.

IV

Pruet & Hughes Company is a Mississippi Co-Partnership composed of Chesley Pruet and Dudley J. Hughes, both of whom are adults. Chesley Pruet is a resident of Hinds County, Mississippi. Dudley J. Hughes is a non-resident of Mississippi and is a resident citizen of Arkansas whose Post

Office Address is Post Office Box 31, El Dorado, Arkansas 71730.

V

The Defendant, Robert Mosbacher, an adult non-resident of the State of Mississippi, is a citizen of the State of Texas, whose Post Office Address is 21st Floor, Capital National Conoco Building, Houston, Texas 77002.

VI

The Defendant, Bruce Sciscoe, an adult non-resident of the State of Mississippi, is a citizen of the State of Louisiana whose Post Office Box is 867, Shreveport, Louisiana 71102.

VII

The Defendant, Verne L. Culbertson, is an adult resident of Hinds County, Mississippi.

VIII

The Defendant, Benton R. Vernon, Jr., is an adult resident of Hinds County, Mississippi.

IX

The Defendant, Dave Gammill, is an adult resident of Hinds County, Mississippi.

X

The Defendant, R. E. Williams, an adult non-resident of the State of Mississippi, is a citizen of the State of Tennessee whose Post Office Address is 402 Dupont Building, Memphis, Tennessee 38101.

XI

The Bates Oil Corporation is a corporation organized under the laws of the State of Delaware whose agent for service of process is the C. T. Corporation System, 118 N. Congress Street, Jackson, Mississippi 39205.

XII

The State of Louisiana is named as a Party Defendant hereto, and process may be served upon the State of Louisiana by serving the same on the Honorable William J. Guste, Jr., Attorney General, whose Post Office Address is Wooddale Tower, Suite 717, 1885 Wooddale Boulevard, Baton Rouge, Louisiana 70806.

XIII

The Complainant, herein, is the owner in fee simple, of the following described property lying and being in Adams County, Mississippi, described as follows:

"A part of the Elysian Field Plantation, formerly the property of A. B. Dille, Sr., being a certain tract or parcel of land containing 422 acres, more or less, designated as the A. B. Dille, Jr., tract on that certain map or plat prepared by Jordan, Kaiser & Sessions, Civil Engineers, in August 1969, a copy of which map or plat was attached to that certain deed executed by Henry W. Dille and Richard T. Dille dated September 6, 1969, and recorded in Book 11-J at Page 72, et seq. of the Land Deed Records of Adams County, Mississippi and which tract may be more particularly described as:

Beginning at the Northeast corner of Section 21, Township 8 North, Range 3 West, Adams County, Mississippi, run along the boundary between Dille and Giles, North $85^{\circ} 12'$ West, for 2914.6 feet, thence North $81^{\circ} 54'$ West for 621.5 feet; thence North $84^{\circ} 36'$ West for 614.0 feet; and thence North $05^{\circ} 24'$ East for 33.0 feet to the Southeast corner of the Moses tract; thence along the boundary of said Moses tract, North $21^{\circ} 28'$ East for 2033.9 feet and North $80^{\circ} 00'$ West for 985 feet to the Mississippi River; thence in a generally northerly direction along the Mississippi River for 3100 feet, more or less, to the North boundary of Elysian Field; thence South $73^{\circ} 34'$ East along the north boundary of Elysian Field (a very old fence) for 2710 feet, more or less; thence South $70^{\circ} 08'$ East for 601.8 feet; thence South $16^{\circ} 13'$ West for 502.1 feet; thence South $14^{\circ} 12'$ West for 147.2 feet to the center of a bayou; thence in a general southerly and southeasterly direction along the center of said bayou for 4055 feet, more or less, to the center of Mammoth Bayou;

thence in a general southerly direction along the center of Mammoth Bayou for 380 feet, more or less, to the south boundary of Elysian Field, thence North 85° 55' West along the South boundary of Elysian Field 1765.8 feet to the point of beginning. Said within described tract containing 422 acres more or less, being a portion of Elysian Field situated in Township 8 North, Range 3 West, Adams County, Mississippi, together with all accretions and alluvion which have been added thereto as well as so much of the bed of the Mississippi River as lies between the bankline of the Mississippi River and the State line between the States of Mississippi and Louisiana, less and except, however, two-thirds of the oil, gas and other minerals in, on and under said lands.

XIV

(a) On the 20th day of January, 1971, Avery B. Dille, Jr., Complainant herein, executed an oil, gas and mineral lease to Dave Gammill which lease is recorded in Oil and Gas Book 147 at Page 353 of the Oil and Gas Records of Adams County, Mississippi. A copy of said lease is attached hereto marked as Exhibit "A", and made part hereof as if copied in full.

(b) On May 5, 1971, by instrument recorded in Box 147 at Page 359 of the Oil and Gas Records aforesaid, Dave Gammill assigned an 82% interest in said lease to the following parties and in the following proportions:

Chesley Pruet	27.500%
Robert Mosbacher	18.750%
Bruce Sciscoe	9.375%
Dudley J. Hughes	9.375%
Verne L. Culbertson	5.000%
Benton R. Vernon, Jr.	2.000%

(c) On the 21st day of January, 1972, effective as of 7:00 A.M., January 1, 1972, by instrument recorded in Book 150 at Page 107 of the Oil and Gas Records of Adams County, Mississippi, Dave Gammill assigned to R. E. Williams all of his right, title and interest in and to the above leasehold estate, together with interest under other leases, reserving a production payment interest of \$225,000.00.

(d) By instrument dated the 25th day of January, 1972, effective as of 7:00 A.M., January 1, 1972, Verne L. Culbertson assigned to R. E. Williams all of his interest in and to said Oil and Gas lease reserving unto himself a production payment interest of \$62,500.00.

(e) By instrument dated the 28th day of January, 1972, effective as of 7:00 A.M., January 1, 1972, Benton R. Vernon, Jr. assigned to R. E. Williams all of his interest in and to said Oil and Gas lease reserving unto himself a production payment interest of \$25,000.00.

(f) On the 1st day of December, 1970, Pruet & Hughes Company (a co-partnership consisting of Chesley Pruet and Dudley J. Hughes) entered into an operating agreement recorded in Book 146 at Page 349 of the Oil and Gas Records of Adams

County, Mississippi with Pruet & Hughes Company as Operator with Chesley Pruet, Robert Mosbacher, Bruce Siscoe, Dudley J. Hughes, Dave Gammill, Benton R. Vernon, Jr., and Verne L. Culbertson executing the same as non-operators which agreement covered the lands owned by the Complainant and originally leased to Dave Gammill, as aforesaid. Under the terms of this agreement, Pruet & Hughes were designated to be the operators of the Dille lease with the responsibility for drilling and producing oil, gas and other minerals, selling the same and accounting to the Complainant and the non-operators listed above as well as all other mineral or leasehold owners for their proportionate interest in the oil, gas and other minerals which might be produced and sold from the lands of the Complainant.

(g) By instrument bearing date of the 22nd day of January, 1974, and recorded in Book 155 at Page 486 of the Oil and Gas Records of Adams County, Mississippi, Dudley J. Hughes assigned to Bates Oil Corporation out of the Avery B. Dille, Jr. lease to Dave Gammill aforesaid, Exhibit "A" hereto, an undivided .093750 gross working interest with a net revenue pay interest of .070312 in that certain producing unit containing 40 acres more or less for the well known as Pruet & Hughes Company-Dille Estate Number 1 insofar as said lease covers and affects the producing unit described as follows:

From the most easterly corner of Section 5, Township 7 North, Range 3 West, Adams County, Mississippi, go West along the north

boundary of Township 7 North, Range 3 West for 124.6 feet; thence North at right angles for 3123.1 feet to the point on the boundary between the State of Mississippi and the State of Louisiana for the point of beginning, being the southwest corner of within described tract. Thence from said point of beginning, go South 80° 00' West along the boundary between the Dille Lease and Moses Lease for 2314.46 feet; thence North 10° 00' East for 1017.34 feet; thence North 80° 00' West for 867.7 feet, more or less, to the thalweg of the Mississippi River, being the boundary between the State of Mississippi and the State of Louisiana; thence downstream along said boundary to the point of beginning. Said within described tract contains 40.0 acres.

XV

To the extent necessary, Complainant de-raigns his title to the property described in Paragraph XIII as follows:

a. All of said property was conveyed to A. B. Dille by deed dated December 24, 1923, executed by Frank K. Dille and Julia W. Dille, his wife, which deed is recorded in Book 4-I, at Page 357 of the Land Deed Records of Adams County, Mississippi.

b. The said A. B. Dille, identical with Avery Benjamin Dille, died testate a resident of Adams County, Mississippi leaving his Last Will and Testament dated December 6, 1956, which will was duly probated and is recorded in Book 22 at Page 215 of Records of Wills in the office of the Chancery Clerk of Adams County, Mississippi. By the terms of said will the above described lands were devised

to his wife, Katherine Turner Dille.

c. The said Katherine Turner Dille, died testate a resident of Adams County, Mississippi leaving her Last Will and Testament dated December 6, 1956, which will is recorded in Book 24 at Page 279 of the Records of Wills in the office of the Chancery Clerk of Adams County, Mississippi. By the terms of said will the above described lands were devised to her three sons, Avery Benjamin Dille, Jr., Henry Ward Dille, and Richard Turner Dille.

d. By Partition deed executed by Henry W. Dille, Avery B. Dille, Jr., and Richard T. Dille, bearing date of the 6th day of September, 1969, and recorded in Book 11-J at Page 72 of the Land Deed Records of Adams County, Mississippi the aforesaid Henry W. Dille and Richard T. Dille conveyed to Complainant, Avery B. Dille, Jr., all of their undivided two-thirds interest in and to the above described property, excepting and reserving to themselves, however, all of their undivided two-thirds interest in and to the oil, gas and other minerals in, on and under the above land.

XVI

Complainant does not deraign his title beyond that shown for the reason that all Defendants, other than The State of Louisiana, received whatever title they claim under the lands owned by Complainant as described in Paragraph XIII above, from a common source. The State of Louisiana makes no claim of title to any part of

the Complainant's land lying in the State of Mississippi, and deraignment of title, therefore, is not made against the aforesaid State of Louisiana, the State of Louisiana being made the party hereto for the purpose of having Complainant's boundary line determined as being established by the Mississippi-Louisiana State line which is the middle of the navigable channel of the Mississippi River.

XVII

(a) On January 20, 1971, Henry W. Dille, individually and as Attorney-In-Fact for Richard T. Dille, executed an oil, gas and mineral lease to Dave Gammill recorded in Book 146 at Page 346 of the Oil and Gas Records of Adams County, Mississippi covering their two-thirds mineral interest. A copy of this lease is attached as Exhibit "B".

(b) Thereafter, this lease was assigned to the same parties and in the same proportions and by the same instruments as set out in Paragraph XIV sub-paragraphas (b) through (g) inclusive, reference to which is made to avoid prolixity.

XVIII

The Defendant, Pruet & Hughes Company, drilled an oil and gas well on the property owned by the Complainant designated as Dille Number 1, productive of oil, the approximate location of

said well being shown on plat attached hereto, marked Exhibit "C" and made a part hereof as fully as though herein copied in full.

XIX

The aforesaid well, Dille Number 1, has been in continual production of oil and other minerals since the respective dates of completion.

XX

The State of Louisiana by Lease Number 5544, which is not of record in Adams County, Mississippi purported to lease to Pruet & Hughes Company a portion of the bed of the Mississippi River lying west of and contiguous to the submerged lands of the Complainant, Thereafter, Pruet & Hughes Company completed a well known as "State of Louisiana Well Number 3" on said leased properties. A plat showing the approximate location of said State Lease Well Number 3 is attached hereto marked Exhibit "D", and made a part hereof as fully as though herein copied in full. The aforesaid State Well Number 3 has been producing oil and gas since its completion, the completion date being unknown to your Complainant, but being approximately January 17, 1972. The surface location of said State of Louisiana Well Number 3 was made on the lands of Complainant in Adams County, Mississippi, and said well was drilled direction-

ally for the purpose of bottoming the well somewhere under the bed of the Mississippi River at a geographical location purportedly owned by the State of Louisiana.

XXI

Upon information and belief, Complainant alleges that said Louisiana State Lease Well Number 3 has continued to produce oil, gas or both continuously since its completion and that all royalties for production from said well have been paid, to the State of Louisiana. The Complainant is without information or knowledge as to the total amount of production, which has resulted from said well or the dollar value thereof, but this is known to Pruet & Hughes Company.

XXII

Complainant would show that the State line between the States of Mississippi and Louisiana, which is also the west boundary of Complainant's lands, is located in the submerged bed of the Mississippi River and is the sailing line of navigation, or the thalweg, of the river, and this State line shifts from time to time as the current of the Mississippi River moves eastward or westward and as the banks of the Mississippi River cave into the river or as the banks of the river are built up by the process of accretion. The plat attached hereto as Exhibit "E" shows the location

of said State line, designated by the word "thalweg", as it appeared as of 1964. Since 1964, however, the thalweg or sailing line or state line has been continually shifting westward. The steady movement of this state line in a western direction in front of the riparian lands of the Complainant was and is well known to the Defendants or, by the exercise of reasonable diligence, could have been ascertained, as all of this information is available through the offices of the Mississippi River Commission and the offices of the United States Corps of Engineers at Vicksburg, Mississippi.

The State line in 1964 is described as follows:

Commence at the northeast corner of Section 21, Township 8 North, Range 3 West, Adams County, Mississippi, and run thence along the south line of the "Elysian Field" tract owned by A. B. Dille, Jr., with the following courses and distances, to-wit: North 85 degrees 12 minutes West 2914.6 feet; thence North 81 degrees 54 minutes West 621.5 feet, thence North 84 degrees 36 minutes West 614 feet, thence North 5 degrees 24 minutes East 33 feet to the southeast corner of the Moses tract, thence along the east line of the Moses tract run North 21 degrees 28 minutes East 2033.9 feet to the northeast corner of the Moses tract; thence with the north line of the Moses tract run North 80 degrees West 985 feet; thence North 80 degrees West 1675 feet; thence North 71 degrees 32 minutes 13 seconds East 330 feet to point "B" shown on Exhibit No. 3 prepared

by Austin B. Smith and attached to the certain boundary line agreement entered into by R. F. Learned & Son, Inc. on the one hand and Mrs. Mary Hodge Giles and others on the other hand, dated the 10th day of January, 1957, and recorded in Deed Book No. 8-F, at Page 15, of the Land Deed Records of Adams County, Mississippi; thence from said point "B" run with the 1964 boundary between the States of Louisiana and Mississippi North 57 degrees 21 minutes East 760.1 feet; thence North 41 degrees 05 minutes East 517.4 feet; thence South 68 degrees 12 minutes East 377 feet; thence North 22 degrees 02 minutes East 453.1 feet; thence North 12 degrees 52 minutes East 646.2 feet, thence North 9 degrees 36 minutes East 395.5 feet; thence North 7 degrees 47 minutes East 400 feet, more or less, to the intersection of the Louisiana-Mississippi State Line with the north line of the A. B. Dille, Jr. "Elysian Field" tract.

XXIII

Complainant would show that by 1972, the State line between the States of Mississippi and Louisiana, as indicated by the thalweg, had shifted to the geographical location as depicted on the map attached hereto as Exhibit "E", which line is indicated in green marked "1972". The geographical location of the 1972 State line location is as follows:

Commence at the northeast corner of Section 21, Township 8 North, Range 3 West, Adams County, Mississippi, and run thence

along the south line of the "Elysian Field" tract owned by A. B. Dille, Jr., with the following courses and distances, to-wit: North 85 degrees 12 minutes West 2914.6 feet; thence North 81 degrees 54 minutes West 621.5 feet, thence North 84 degrees 36 minutes West 614 feet, thence North 5 degrees 24 minutes East 33 feet to the southeast corner of the Moses tract, thence along the east line of the Moses tract run North 21 degrees 28 minutes East 2033.9 feet to the northeast corner of the Moses tract; thence with the north line of the Moses tract run North 80 degrees West 985 feet; thence North 80 degrees West 1675 feet; thence North 71 degrees 32 minutes 13 seconds East 330 feet to point "B" shown on Exhibit No. 3 prepared by Austin B. Smith and attached to that certain boundary line agreement entered into by R. F. Learned & Son, Inc. on the one hand and Mrs. Mary Hodge Giles and others on the other hand, dated the 10th day of January, 1957, and recorded in Deed Book No. 8-F, at Page 15, of the Land Deed Records of Adams County, Mississippi; thence from said point "B" run with the 1972 boundary between the States of Louisiana and Mississippi North 57 degrees 21 minutes East 760.1 feet; thence North 41 degrees 05 minutes East 517.4 feet; thence South 68 degrees 12 minutes East 377 feet; thence North 3 degrees East 240 feet more or less, thence North 2 degrees 400 feet more or less; thence North 1120 feet more or less to the intersection of the Louisiana-Mississippi State Line with the north line of the A. B. Dille, Jr. "Elysian Field" tract.

XXIV

By 1973, said State line had shifted further west and was then in the geographical location as shown on Exhibit "E" hereto, indicated by a purple line with the legend "1973". The geographical location of the 1973 State line is as follows:

Commence at the northeast corner of Section 21, Township 8 North, Range 3 West, Adams County, Mississippi, and run thence along the south line of the "Elysian Field" tract owned by A. B. Dille, Jr., with the following courses and distances, to-wit: North 85 degrees 12 minutes West 2914.6 feet; thence North 81 degrees 54 minutes West 621.5 feet, thence North 84 degrees 36 minutes West 614 feet, thence North 5 degrees 24 minutes East 33 feet to the southeast corner of the Moses tract, thence along the east line of the Moses tract run North 21 degrees 28 minutes East 2033.9 feet to the northeast corner of the Moses tract; thence with the north line of the Moses tract run North 80 degrees West 985 feet; thence North 80 degrees West 1675 feet; thence North 71 degrees 32 minutes 13 seconds East 330 feet to point "B" shown on Exhibit No. 3 prepared by Austin B. Smith and attached to that certain boundary line agreement entered into by R. F. Learned & Son, Inc. on the one hand and Mrs. Mary Hodge Giles and others on the other hand, dated the 10th day of January, 1957, and recorded in Deed Book No. 8-F, at Page 15, of the Land Deed Records of Adams County, Mississippi; thence from said point "B" run with the 1973 boundary between the

States of Louisiana and Mississippi North 57 degrees 21 minutes East 760.1 feet; thence North 41 degrees 05 minutes East 517.4 feet; thence South 68 degrees 12 minutes East 230 feet more or less; thence North 3 degrees 45 minutes East 400 feet more or less; thence North 1 degree 15 minutes West 1000 feet more or less, to the intersection of the Louisiana-Mississippi State line with the north line of the A. B. Dille, Jr. "Elysian Field" tract.

XXV

By 1975, said State line had shifted still further west and occupied the geographical location depicted on Exhibit "E" hereto depicted by a black line bearing the legend of "1975 thalweg" and the geographical location of the State line as of 1975 is as follows:

Commence at the northeast corner of Section 21, Township 8 North, Range 3 West, Adams County, Mississippi, and run thence along the south line of the "Elysian Field" tract owned by A. B. Dille, Jr., with the following courses and distances, to-wit: North 85 degrees 12 minutes West 2914.6 feet; thence North 81 degrees 54 minutes West 621.5 feet, thence North 84 degrees 36 minutes West 614 feet, thence North 5 degrees 24 minutes East 33 feet to the southeast corner of the Moses tract, thence along the east line of the Moses tract run North 21 degrees 28 minutes East 2033.9 feet to the northeast corner of the Moses tract; thence with the north line of the Moses tract run North 80 degrees West 985 feet; thence North

80 degrees West 1675 feet; thence North 71 degrees 32 minutes 13 seconds East 330 feet to point "B" shown on Exhibit No. 3 prepared by Austin B. Smith and attached to that certain boundary line agreement entered into by R. F. Learned and Son, Inc. on the one hand and Mrs. Mary Hodge Giles and others on the other hand, dated the 10th day of January, 1957, and recorded in Deed Book No. 8-F, at Page 15, of the Lakd Deed Records of Adams County, Mississippi; thence from said point "B" run with the 1975 boundary between the States of Louisiana and Mississippi North 57 degrees 21 minutes East 760.1 feet; thence North 41 degrees 05 minutes East 517.4 feet; thence North 3 degrees West 3075 feet more or less, to the intersection of the Louisiana-Mississippi State Line with the north line of the A. B. Dille, Jr., "Elysian Field" tract.

XXVI

By 1976, said thalweg and State line had again shifted further west in front of the Complainant's lands and occupied the geographical position as shown on Exhibit "E", attached hereto depicted by a red line bearing the legend "July 1976 thalweg". The geographical location of the July 1976 State line is as follows:

Commence at the northeast corner of Section 21, Township 8 North, Range 3 West Adams County, Mississippi, and run thence along the south line of the "Elysian Field" tract owned by A. B. Dille, Jr., with the following courses and distances, to-wit: North 85 degrees 12 minutes West 2914.6 feet;

thence North 81 degrees 54 minutes West 621.5 feet, thence North 84 degrees 36 minutes West 614 feet, thence North 5 degrees 24 minutes East 33 feet to the southeast corner of the Moses tract, thence along the east line of the Moses tract run North 21 degrees 28 minutes East 2033.9 feet to the northeast corner of the Moses tract; thence with the north line of the Moses tract run North 80 degrees West 985 feet; thence North 80 degrees West 1675 feet; thence North 71 degrees 32 minutes 13 seconds West 150 feet more or less, thence North 1 degree 15 minutes East 3270 feet more or less, thence North 7 degrees 47 minutes East 400 feet; more or less, to the intersection of the Louisiana-Mississippi State Line with the north line of the A. B. Dille, Jr. "Elysian Field" tract.

XXVII

Under the laws and court decisions of the State of Mississippi, the owner of lands which are riparian to the Mississippi River also owns the bed of the river extending from the Mississippi bank line out to the adjoining State line, which in this instance is the State line of Mississippi-Louisiana. Therefore, as the State line migrated westward, Complainant's ownership of the bed of the Mississippi River and its underlying minerals followed the State line. This change of ownership resulting from the migration of the State line, was called to the attention of Defendant, Pruet & Hughes Company and was also called to the attention of the State of Louisiana by your Com-

plainant with demand being made by the Complainant that adjustments in royalty payments be made so that Complainant would be paid his proportionate part of the royalty attributable to his ownership of the bed of the Mississippi River as the same was enlarged by the migration westward of the thalweg or State line and between the States of Mississippi and Louisiana. In spite of said demands the Defendants, State of Louisiana and Pruet & Hughes Company have refused to honor the same and over the protest of Complainant Pruet & Hughes Company has continued to pay to the State of Louisiana all gas and oil royalties attributable to production through the drill hole from the State of Louisiana Lease 5544, Well Number 3, although said well is draining oil from the Complainant's lands, and the State of Louisiana has also refused to pay the same or any part thereof to Complainant although requested so to do.

XXVIII

Complainant would show that Pruet & Hughes Company and the State of Louisiana entered into an agreement through the Oil and Gas Board of the State of Louisiana establishing a forty acre producing unit surrounding the State of Louisiana Well Number 3. A copy of the Orders establishing this unit is attached hereto marked Exhibit "F". The Complainant was not a party to this proceeding and has never acquiesced therein.

This unit originally embraced only portions of the bed of the Mississippi River lying within the State of Louisiana but as the State line, which is the same as the sailing line of navigation, or the thalweg of the Mississippi River, moved westward, title to portions of the bed of the river, together with title to one-third of the minerals underlying the same became vested in Complainant. The Louisiana State Well Number 3, then commenced draining oil and gas from Complainant's lands, which drainage has continued to this day. As shown by Exhibit "E" the Louisiana State Well Number 3 is not bottomed entirely under the lands of Complainant.

XXIX

Complainant would show that by reason of such drainage a third of the royalties from State of Louisiana Well Number 3 attributable to Complainant's submerged lands should have been paid to him but the amount of said royalties, and the volume of oil and gas produced through said Louisiana State Well Number 3 is unknown to your Complainant but it is known to the Defendants, State of Louisiana and Pruet & Hughes Company. Complainant would show unto the Court that he is entitled to an accounting from the said Pruet & Hughes Company and The State of Louisiana of all oil and gas drained from his submerged lands which were produced through and drained by the aforesaid State of Louisiana

Well Number 3 and he is entitled to be paid the value of one-third of one-fourth thereof, together with interest.

XXX

Complainant would further show that it was and is the duty of the Defendant, Pruet & Hughes Company to pay to the rightful royalty owners such royalty owners' proportionate part of the oil and gas produced and the portion of such royalty payable to Complainant can be ascertained only by an annual determination of where the State line is located as between the State of Mississippi and the State of Louisiana. Complainant would show that the United States Engineers, Vicksburg District, make hydrographic studies of the bed of the Mississippi River annually, and these studies show and will show the location of the Mississippi-Louisiana State line as of the time of said hydrographic survey. Complainant is entitled to a mandatory injunction directing the Defendant, Pruet & Hughes Company in the future to make an annual determination of the location of the shifting State line between the States of Mississippi and Louisiana, based upon such studies, and to thereafter adjust the payment of royalties annually in accordance with the new location of the State line.

XXXI

Complainant would show that all of the Defendants, other than the State of Louisiana and

Pruet & Hughes Company also have an interest in the minerals and royalties underlying the bed of the Mississippi River lying between the shifting State line and the bank of the Mississippi shore and upon information and belief Complainant charges that the Defendant, Pruet & Hughes Company has not been paying these Defendants their proportionate part of the royalty and oil payments as set out in Paragraph XIV above. For the purpose of finally adjudicating all disputes as to the ownership of the royalties, oil payments and other payments that are due under the terms of the leases attached as Exhibits "A" and "B" hereto, your Complainant has named all of said parties having such an interest as Defendants to this proceeding and ask that they be realigned as Party Complainants.

XXXII

Complainant charges that the refusal of the Defendant, Pruet & Hughes Company to pay to Complainant his proportionate part of the royalties to which he is entitled as shown above, is a wilful and wanton disregard of the rights of Complainant and Complainant is entitled to punitive damages in the sum of \$100,000.00 and attorneys fees.

WHEREFORE PREMISES CONSIDERED,
Complainant respectfully prays:

1. That process be issued to the Defendants,

herein, requiring them to answer plead or demur to this complaint at the August term of this Honorable Court, answer under oath being waived.

2. That upon a final hearing Complainant be adjudicated to be the owner of one-third of the oil, gas and other minerals in, on and under that portion of the bed of the Mississippi River lying between his Mississippi bankline (left descending bank of the Mississippi River) and the State line between the States of Mississippi and Louisiana and that the State line locations be adjudicated to be those locations as described in Exhibit "E" to this complaint at the respective times shown.

3. That the Defendant, Pruet & Hughes Company, be required to make an accounting to this Court of all oil, gas and other minerals produced from the well known as State of Louisiana, Well Number 3, as well as any other wells which may be draining the lands of Complainant with the sales price received by it from the sale of said minerals, and that Complainant be paid one-third portion of the royalty from such production attributable to his ownership of the bed of the Mississippi River as the State line migrated westward.

4. That all Defendants other than Pruet & Hughes Company and the State of Louisiana be re-aligned as parties Complainant.

5. That upon final hearing a Decree be entered herein adjudicating the amount of indebtedness owed by Pruet & Hughes Company to this Complainant and that a judgment for said

amount with legal interest be entered in favor of your Complainant.

6. That a mandatory injunction be entered requiring the Defendant, Pruet & Hughes Company, in the future, to make annual redeterminations of the State line between the States of Mississippi and Louisiana and to adjust the royalties payable to Complainant accordingly.

7. Complainant demands judgment against the Defendant, Pruet & Hughes Company in the sum of \$100,000.00 together with reasonable attorneys fees and expenses, all as punitive damages.

8. If Complainant has asked for inadequate or insufficient relief, he prays for such other further and general relief to which he may be entitled in the premises, and as in duty bound he will ever pray.

WARD, MARTIN, TERRY
AND WAY
POST OFFICE BOX 789
VICKSBURG, MISSISSIPPI
39180

BY: _____
ATTORNEYS FOR COM-
PLAINANT

COMPLAINANT

STATE OF MISSISSIPPI
COUNTY OF ADAMS

PERSONALLY appeared before me, the undersigned Notary Public, in and for the jurisdiction above, Avery B. Dille, Jr., who being first duly sworn, deposes and states upon oath that he has read the foregoing Bill of Complaint and that the matters and things therein set out are true and correct, except as to those matters stated upon information and belief, and as to those he verily believes the same to be true.

AVERY B. DILLE, JR.

SWORN to and subscribed before me this the 19th day of June, 1979.

NOTARY PUBLIC

My Commission Expires:

Best Copy Available

OIL, GAS AND MINERAL LEASE

THIS AGREEMENT made this 20th day of January 1971, between
AVERY B. DILLON, JR.,

Lessor (whether one or more) whose address is
and DAVE GAMMILL, P. O. Box 92, Jackson, Mississippi 39205 Lessee. WITNESSETH:

1. Lessor in consideration of Ten and other good and valuable considerations Dollars
(\$.....) in hand paid, of the receipt hereof provided, and of the agreement of Lessee herein contained hereby grants, leases and lets
exclusively unto Lessee for the purpose of prospecting, exploring, prospecting, drilling and mining for and producing oil, gas and all other minerals, laying
pipe lines, building roads, tanks, power stations, telephone lines and other structures thereon to produce, save, their care of, lease, transport and own and
products, and housing his employees, the following described land in Adams County, Mississippi, to-wit:

120 acres as shown and signed for identification on the
attached plat marked Exhibit "A" to this Lease. Said
lands being a portion of the Elysian Fields Plantation
and being located in Township 8 North, Range 3 West,
Adams County, Mississippi.

* Paragraph No. 3 of this lease is hereby amended to read
one-quarter (1/4) royalty instead of the one-eighth (1/8)
royalty printed therein.

NOTWITHSTANDING the provisions of Paragraph 2, of this lease, if upon the expiration of the primary term hereof, oil, gas or other minerals are being produced from said land, this lease shall continue in force after the primary term only so long as the Lessee shall conduct continuous drilling operations, as the term is hereinafter defined, for oil, or gas, on said lands or acreage pooled therewith. The term "continuous drilling operations" as herein used means the commencement of actual drilling of a well within six months after the expiration of the primary term hereof, and thereafter drilling of wells with not more than six months elapsing between the completion of a well and the commencement of actual drilling of the next succeeding well; each well drilled and completed on said land or acreage pooled therewith by Lessee, whether or not productive, shall thus operate to extend the lease in force in its entirety for a period of six months next following the date of its completion; and provided, further, that the six months allowed between the completion of one well and the commencement of actual drilling of another well shall be accumulative as to two consecutive wells, that is, if a well is commenced sooner than six months after the completion of the preceding well, the time so saved shall be added to the six months allowed for commencement of actual drilling of a subsequent well, but in no event to exceed a total of twelve months. If and when Lessee shall fail or cease to conduct continuous drilling operations upon said lands, as above defined, this lease shall thereupon terminate in its entirety, save and except each producing unit, if any, on which a well has been completed in accordance with the provisions of this lease and from which well oil or gas is then being produced in paying quantities.

With reference to the Lessee's right of pooling and pooling rights hereunder, the Lessee does covenant and agree that as to any and all acreage pooled, and from time to time, the Lessee shall not have the right of pooling unless at least fifty (50) percent of the lands comprising a drilling unit shall consist of lands described under this lease are pooled in said unit or units, with the royalty due Lessor hereunder. Notwithstanding anything to the contrary contained in the printed form of this lease, it is further distinctly agreed and understood that with reference to pooling rights, that the pooling of any portion of the Lessor's land, and in the event of production with the land so pooled, the same shall not have the effect of keeping this lease in force and effect as to the remainder of Lessor's land hereby leased, but rather, shall keep this lease in force and effect only as to the land of Lessor actually pooled with other land on which there is a producing oil or gas well. It is also understood and agreed that the fifty (50) percent pooling provision described hereinabove may be reduced as to each drilling unit only upon written consent of the Lessor.

With reference to Paragraph 3 of the printed form of this lease, while there is a gas well or wells on this lease, or on acreage pooled therewith, but gas is not being sold, the Lessee shall pay to Lessor the sum of Five Dollars (\$5.00) per acre per year for each acre on which there is a gas well.

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If there be any producing units so excepted from termination of this lease upon failure or cessation on the part of Lessee to conduct continuous drilling operations upon this land, as aforesaid, then this lease shall thereafter continue in force only insofar as it covers each prospective producing unit as long as, and not after, oil or gas is being produced in paying quantities from a well located upon such unit. Provided, however, that if production of oil or gas in paying quantities upon any aforesaid excepted producing unit or units,

should thereafter cease from any cause, and if Lessee commences additional drilling or reworking operations on such producing unit within sixty (60) days after such cessation of production, this lease shall remain in force, insofar as it covers such producing unit, as long as the same are prosecuted with reasonable diligence and with no cessation in any event more than sixty (60) days, and if it results in the production of oil or gas in paying quantities on a producing unit, then this lease insofar as it covers the particular unit in question, shall remain in force so long thereafter as such production of the kind above specified shall continue in paying quantities. If any of the hereinabove described terms and provisions of this lease are not complied with and upon written notice, Lessee or his assigns shall within sixty (60) days after receipt of said written notice release to Lessor all of the lands included in this lease except said lands being in a producing unit as hereinabove described.

It is also agreed by and between Lessor and Lessee that for the use of the surface rights owned by Lessor, Lessee covenants and agrees to pay Lessor the sum of \$500.00 for each oil or gas well drilled upon the premises herein leased. Said payment to be made, in cash, five days before the commencement of drilling of any well upon the leased premises.

It is also agreed by and between the Lessor and Lessee that for the use of the surface of Lessor's land that Lessee agrees to pay Lessor the sum of \$150.00 per month to place tank batteries and treaters sites upon the surface of Lessor's land and for the use of roads and roadways upon the surface of the Lessor's land, said payment to be made, in advance, on a monthly basis prior to the installation of any tank batteries or treaters upon the surface of the properties owned by Lessor; and Lessee further agrees to gravel and keep in proper repair all roads used by Lessee.

Lessee herein agrees that it shall and will, upon the completion of the drilling of any well hereunder, reasonably restore said premises to a satisfactory condition and will fence any and all pits for the protection of livestock; and Lessee further agrees to install a metal cattle gap, customarily used in the area, at any boundary fence prior to moving a drilling rig upon the premises; and upon request by Lessor to Lessee to place suitable gates at any boundary fence and to keep the same locked at all times when not being used by Lessee.

In drilling any well or wells on the leased premises, the Lessee by its acceptance of the fruits of this lease covenants and agrees that he will use existing roads and roadways wherever and whenever feasible.

Lessee covenants that Lessee will conduct all drilling and producing operations in good and workmanlike manner. That Lessee will pay reasonable damages for crops, pastures and timber destroyed in such drilling or producing operations. That Lessee will control the disposal of salt water and pay reasonable damages for losses resulting to Lessor from the escape of oil or oily waste or salt water. That it will back-fill all pits and excavations when not otherwise used for drilling or producing operations hereunder and will otherwise restore the lands as near as practicable to the conditions in which the said lands were prior to such operations, reasonable uses for the purposes and during the time of such operations excepted. These covenants are in addition to all other covenants and conditions expressed or implied contained in the within oil, gas and mineral lease.

142 INC 353

This lease covers all oil and gas rights in, on and under the lands hereinabove described from the surface of the ground down to the base of the Wilcox formation; all oil and gas below said depth in said lands, and all of the rights appertaining thereto, expressly excepted from this lease and reserved to Lessor, his heirs and assigns. The parties hereto, their respective heirs, successors and assigns, shall have equal and concurrent rights of ingress and egress and use of the surface (upon the terms and conditions set forth in this lease) for the purpose of exploring, drilling for, mining, producing, storing, and marketing oil and gas from their respective depths, above specified.

The warranty of paragraph (10) hereof is limited to such right title and interest as is held by Lessor, as shown by the Land Records in the Office of the Chancery Clerk of Adams County, Mississippi.

Lessee agrees to promptly pay the surface owner of the actual value of all timber felled by Lessee in the conduct of his operations hereunder.

In connection with any tank battery or treater site or sites to be placed upon the surface of Lessor's premises, it is agreed by and between the parties that all tank battery and treater sites shall be placed in an area where existing tank battery sites are now located if said production equipment can be located on the existing site or sites. If, according to the Lessee, or his Assigns, said production equipment cannot economically or reasonably be placed on any existing tank battery sites, then Lessee or his Assigns and Lessor shall mutually agree upon a more suitable tank battery site. Lessor shall not withhold his consent as to the location of any tank battery site or sites other than the existing tank battery site or sites, as long as Lessee or his Assigns have made a reasonable attempt to place said tank battery site or sites at a mutually agreeable location with the Lessor.

The Lessor shall have the right to use, free of cost, gas from any well producing gas, for heating Lessor's home and other general domestic use in any building now situated on said property, so long as Lessee or his Assigns do not actually need said gas for producing said well or wells. If said Lessor is using the gas for his hereinabove described needs and Lessee or his Assigns deems it necessary to use said gas in producing the well or wells, then Lessee or his assigns shall give Lessor written notice of such a need and Lessor will immediately discontinue the use of any such gas from the well or wells being produced. Lessor is to make connections with the well or wells and run any necessary pipe or pipes to Lessor's existing gas system, the use of said gas to be at Lessor's sole risk and expense.

SIGNED FOR IDENTIFICATION

ADAMS COUNTY
AVERY B. DILLE, JR.

ADAMS
COUNTY

This lease also covers and includes all land owned or claimed by Lessee adjacent or contiguous to the land particularly described above, whether the same be in said section or sections, grant or grants, or in adjacent sections or grants, although not included within the boundaries of the land particularly described above. For the purpose of subdividing the several sections hereinafter provided for, said land be estimated to contain: 120 acres.

1. The purpose of subdividing the several sections hereinafter provided for, said land be estimated to contain: 120 acres.

2. Subject to the other provisions herein provided, this lease shall be for a term of years, to be determined by the parties to the lease, and shall be subject to the provisions hereinafter provided.

3. The purpose of subdividing the several sections hereinafter provided for, said land be estimated to contain: 120 acres.

4. The purpose of subdividing the several sections hereinafter provided for, said land be estimated to contain: 120 acres.

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38. The purpose of subdividing the several sections hereinafter provided for, said land be estimated to contain: 120 acres.

39. The purpose of subdividing the several sections hereinafter provided for, said land be estimated to contain: 120 acres.

Best Copy Available

EXHIBIT "A"

Oil, Gas and Mineral Lease
dated January 20, 1971
from Avery H. Dille, Jr. in favor
of Dave Gamhill

147, 1865



RIVER



Scale: 1" = 1000'

"CLERMONT PLANTATION"
"Giles"

STATE OF MISSISSIPPI,
ADAMS COUNTY

I, ROBERT L. BURNS, Clerk of the Chancery Court of said County, hereby certify that the foregoing instrument of writing
recorded in my office has record on the 7 day of JULY, 1971, at 4:00 o'clock
P. M., and duly recorded in OIL & GAS Book No. 147 Page 1865
WITNESS my hand and Seal of said Court, this 7 day of JULY, 1971
ROBERT L. BURNS, Clerk
[Signature] D.C.

OIL, GAS AND MINERAL LEASE

THIS AGREEMENT made this 20th day of JANUARY 1971 between

HENRY W. DILLE, Individually, and as Attorney-in-Fact for
RICHARD T. DILLE

EL PASO, TEXAS

and (whether one or more) whose address is
DAVE GAMMILL, P. O. Box 92, Jackson, Mississippi Lessee, WITNESSETH:

1. Lessee in consideration of Ten and other good and valuable considerations Dollars

10.00 2. To have paid, of the royalties herein provided, and of the equipment of Lessee herein contained, hereto grants, leases and less
privately unto Lessee for the purpose of investigating, exploring, prospecting, drilling and mining for and producing, taking oil, gas and all other minerals, having
in here, building roads, tanks, power stations, telephone lines and other structures therein to produce, save, take care of, treat, transport and own said
minerals, and having the employees, the following described land in: Adams County, Mississippi, to-wit:

120 Acres as shown and signed for identification on the
attached plat marked Exhibit "A" to this Lease. Said
lands being a portion of the Elysian Fields Plantation
and being located in Township 5 North, Range 3 West,
Adams County, Mississippi.

Lease *John*

* Paragraph No. 3 of this/is hereby amended to read
one-quarter (1/4) royalty instead of the one-eighth
(1/8) royalty printed therein.

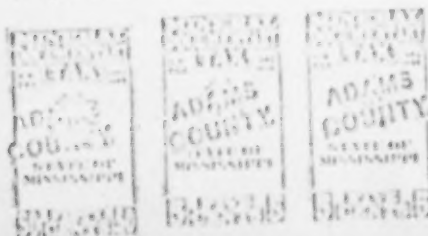
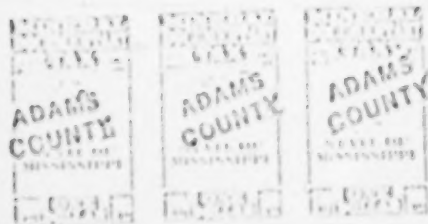
7508
NOTWITHSTANDING the provisions of Paragraph 2, of this lease,
if upon the expiration of the primary term hereof, oil, gas or other minerals
are being produced from said land, this lease shall continue in force after
the primary term only so long as the Lessee shall conduct continuous drill-
ing operations, as the term is hereinafter defined, for oil, or gas, on said
lands or acreage pooled therewith. The term "continuous drilling operations"
as herein used means the commencement of actual drilling of a well within
six months after the expiration of the primary term hereof, and thereafter
drilling of wells with not more than six months elapsing between the comple-
tion of a well and the commencement of actual drilling of the next succeeding
well; each well drilled and completed on said land or acreage pooled therewith
by Lessee, whether or not productive, shall thus operate to extend the lease
in force in its entirety for a period of six months next following the date of
its completion; and provided, further, that the six months allowed between
the completion of one well and the commencement of actual drilling of another
well shall be accumulative as to two consecutive wells, that is, if a well is
commenced sooner than six months after the completion of the preceding
well, the time so saved shall be added to the six months allowed for commence-
ment of actual drilling of a subsequent well, but in no event to exceed a total
of twelve months. If and when Lessee shall fail or cease to conduct continuous
drilling operations upon said lands, as above defined, this lease shall there-
upon terminate in its entirety, save and except each producing unit, if any,
on which a well has been completed in accordance with the provisions of this
lease and from which well oil or gas is then being produced in paying quantities.

145-1137
With reference to the Lessee's right of pooling and pooling rights hereunder, the Lessee does covenant and agree that as to any and all acreage pooled, and from time to time, the Lessee shall not have the right of pooling unless at least fifty (50) percent of the lands comprising a drilling unit shall consist of lands described under this lease are pooled in said unit or units, with the royalty due Lessor hereunder. Notwithstanding anything to the contrary contained in the printed form of this lease, it is further distinctly agreed and understood that with reference to pooling rights, that the pooling of any portion of the Lessor's land, and in the event of production with the land so pooled, the same shall not have the effect of keeping this lease in force and effect as to the remainder of Lessor's land hereby leased, but rather, shall keep this lease in force and effect only as to the land of Lessor actually pooled with other land on which there is a producing oil or gas well. It is also understood and agreed that the fifty (50) percent pooling provision described hereinabove may be reduced as to each drilling unit only upon written consent of the Lessor.

With reference to Paragraph 3 of the printed form of this lease, while there is a gas well or wells on this lease, or on acreage pooled therewith, but gas is not being sold, the Lessee shall pay to Lessor the sum of Five Hundred Dollars (\$500.00) per well per year for each of such shut-in gas well or wells.

If there be any producing units so excepted from termination of this lease upon failure or cessation on the part of Lessee to conduct continuous drilling operations upon this land, as aforesaid, then this lease shall thereafter continue in force only insofar as it covers each prospective producing unit as long as, and not after, oil or gas is being produced in paying quantities from a well located upon such unit. Provided, however, that if production of oil or gas in paying quantities upon any aforesaid excepted producing unit or units,

should thereafter cease from any cause, and if Lessee commences additional drilling or reworking operations on such producing unit within sixty (60) days after such cessation of production, this lease shall remain in force, insofar as it covers such producing unit, as long as the same are prosecuted with reasonable diligence and with no cessation in any event more than sixty (60) days, and if it results in the production of oil or gas in paying quantities on a producing unit, then this lease insofar as it covers the particular unit in question, shall remain in force so long thereafter as such production of the kind above specified shall continue in paying quantities. If any of the hereinabove described terms and provisions of this lease are not complied with and upon written notice, Lessee or his assigns shall within sixty (60) days after receipt of said written notice release to Lessor all of the lands included in this lease except said lands being in a producing unit as hereinabove described.



SIGN FOR IDENTIFICATION

Henry W. Dille
HENRY W. DILLE

Henry W. Dille
HENRY W. DILLE as Attorney-in-Fact for RICHARD T. DILLE

[illegible]

10

146 145

RIVER

MISSISSIPPI LOUISIANA

David J. Johnston

1865

State of Louisiana La

MISSISSIPPI

Date / /

MOSES TRACT

SIGN FOR IDENTIFICATION

15724
Henry W. Dilce
HENRY W. DILCE

HENRY W. DILLON as Attorney

HENRY W. DILLON as Attorney-in-Fact for Richard T. Dillon

Scale: 1" = 1000'

"CLERMONT PLANTATION"

"Giles"

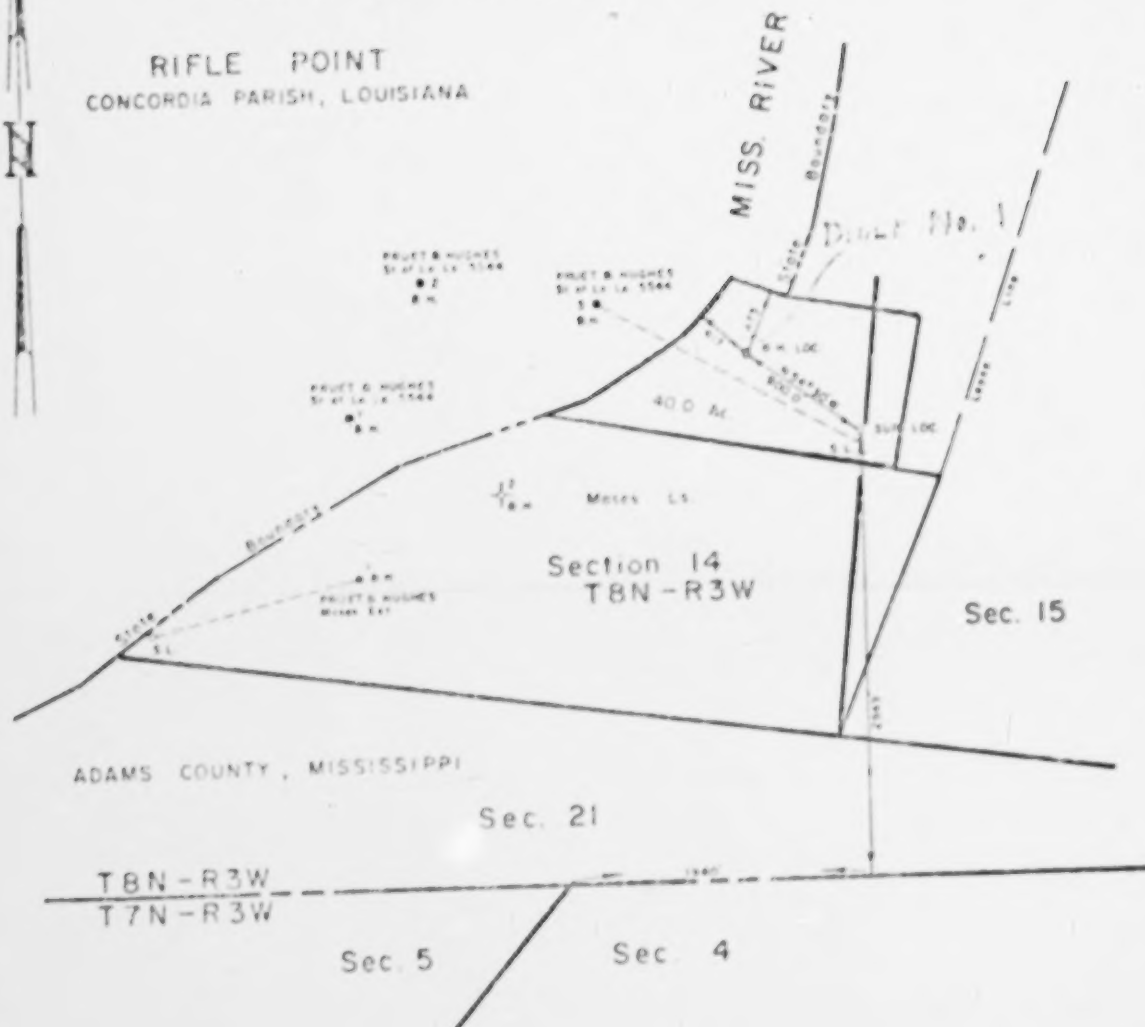
STATE OF MISSISSIPPI
ADAMS COUNTY

I, BENJAMIN J. HARRIS, Clerk of the County Court of said County, hereby certify that the foregoing instrument of writing was filed by me with the Clerk of said Court on the 27th day of February, 1906.

B. J. Harris

NOTE: The drilling unit shown hereon lies totally within the confines of a rectangle 2314.46 feet by 1094.44 feet.

RIFLE POINT
CONCORDIA PARISH, LOUISIANA



DESCRIPTION OF LOCATION: From the most easterly corner of Section 5, T7N-R3W, Adams County, Mississippi, go East along the north boundary of T7N-R3W for 1940 feet; thence North at right angles for 2949 feet to surface location in Section 14, T8N-R3W; thence N 54° 30' W for 900.0 feet to bottom hole location.

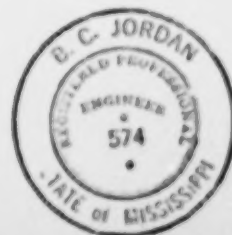
B. C. Jordan, Jr.
B. C. Jordan, Jr., Reg. C.E. No. 574

RECEIVED
NOV 18 1971
STATE OIL & GAS BOARD

GILES BEND FIELD

Well Location For
PRUET & HUGHES CO.
Dille No. 1
in

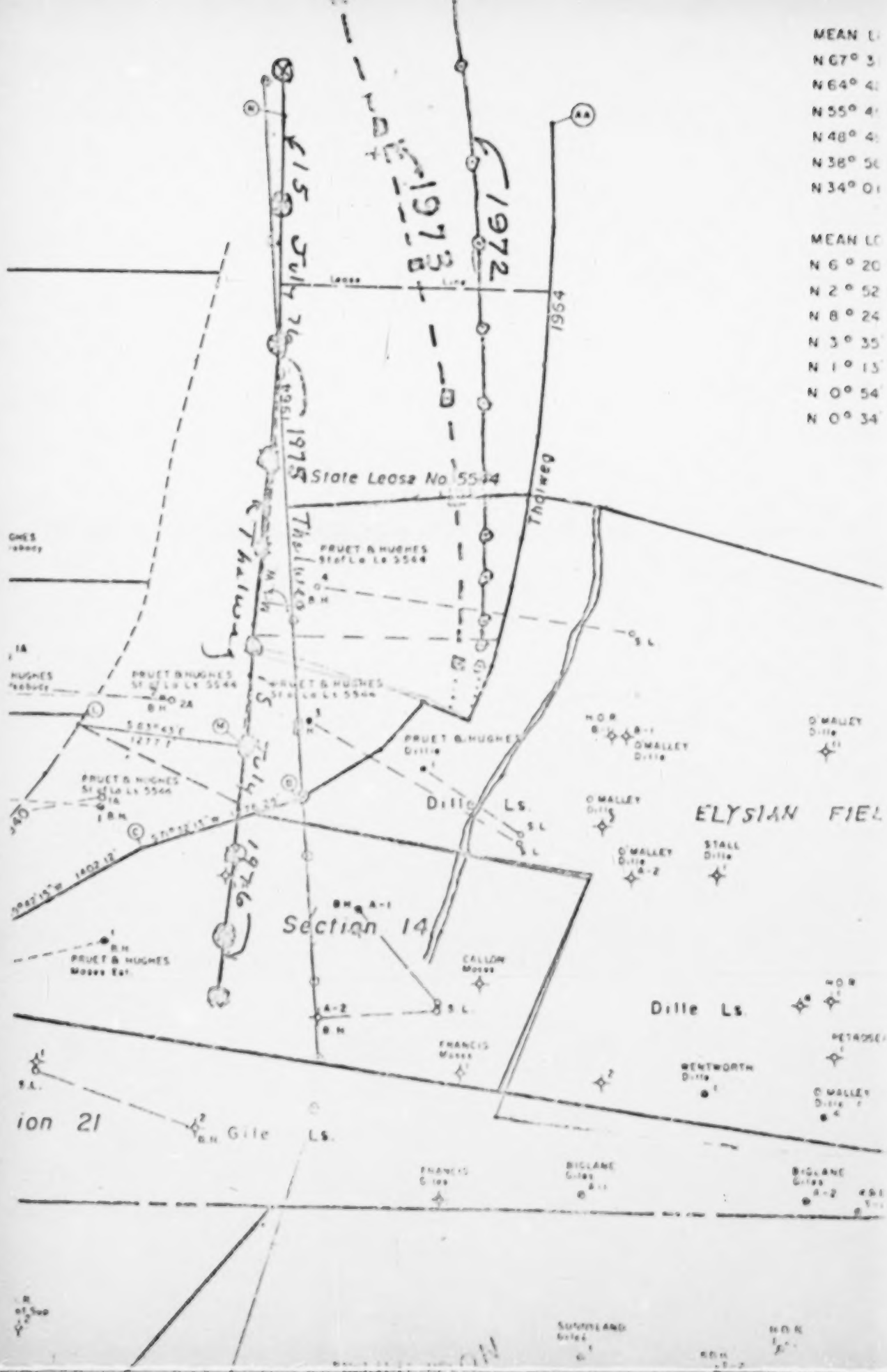
Section 14, T8N-R3W
Adams County, Mississippi



MEAN L
N 67° 3
N 64° 4
N 55° 4
N 48° 4
N 38° 5
N 34° 0

MEAN L
N 6° 20
N 2° 52
N 8° 24
N 3° 35
N 1° 13
N 0° 54
N 0° 34

15



STATE OF LOUISIANA
DEPARTMENT OF CONSERVATION
BATON ROUGE, LOUISIANA

April 28, 1975

ORDER NO. 887-B

Order concerning rules and regulations and the creation of three drilling and production units for the Parker B Sand, Reservoir A, in the GILES BEND FIELD, Concordia Parish, Louisiana.

* * * * *

Pursuant to power delegated under the laws of the State of Louisiana, and particularly Title 30 of Louisiana Revised Statutes of 1950, and after a public hearing held in Shreveport, Louisiana, on April 10, 1975, under Docket No. 75-87, upon the application of Pruet & Hughes Company, following legal publication of notice and notice in accordance with rules prescribed by the Commissioner of Conservation, the following order is issued and promulgated by the Commissioner of Conservation as being reasonably necessary to conserve the natural resources of the State, to prevent waste as defined by law, to avoid the drilling of unnecessary wells and otherwise to carry out the provisions of the laws of this State.

DEFINITION

The Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana, is hereby defined as being that oil and gas bearing sand encountered between the depths of 5,622 feet and 5,662 feet (electrical log measurements) in the Pruet & Hughes (originally Dave Garrill) No. 1 Learned-Peabody Well, located 12,345 feet South and 1,700 feet East of the common corner of Sections 15, 16 and 53, Township 8 North, Range 10 East, on alluvion to said Township 8 North, Range 10 East, Concordia Parish, Louisiana.

FINDINGS

The Commissioner of Conservation finds as follows:

1. That the establishment of rules and regulations and the creation of three drilling and production units for the Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana, are necessary to insure orderly development, to prevent waste, and to avoid the drilling of unnecessary wells.
2. That the available geological and engineering data indicate that the units, all as more particularly shown on the plat labeled "Pruet & Hughes Company Exhibit No. 4 for Docket No. 75-87," are reasonable and should be adopted; that each unit can be efficiently and economically drained by one well located thereon and that creation of such units should reasonably assure to each separate tract its just and equitable share of the contents of the reservoir.
3. That the separately owned tracts, mineral leases and other property interests within the unit created herein should be force pooled and integrated with each separate tract sharing in unit production on a surface acreage basis of participation.

4. That any wells drilled in the Parker B Sand, Reservoir A, outside of the units herein established should be located in accordance with Statewide Order No. 29-E.
5. That the wells as shown on the unit plat should be designated as the unit wells for the respective units in which they are located.
6. That Proct & Hughes Company should be designated as operator of the units created herein.

O R D E R

NOW, THEREFORE, IT IS ORDERED THAT:

1. The drilling and production units shown on the plat labeled "Proct & Hughes Company Exhibit No. 4 for Docket No. 75-87," attached hereto and made a part hereof, be and they are hereby approved and adopted as drilling and production units for the exploitation for and production of oil and gas from the Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana.

The units have not been surveyed, and when a survey plat of said units showing the exterior limits thereof, the total acreage therein, and the acreage in each separately owned tract, has been submitted to and accepted by the Commissioner of Conservation or any member of his staff, insofar as it shows the exterior limits of the units, said plat shall be substituted for the above exhibit and made a part of this order by reference. In the event of conflicting claims of ownership of acreage in any unit, such acreage may be so identified on the survey plat. Such identification of acreage subject to conflicting claims shall not be construed as an acknowledgment of the validity of any such claims, and shall not affect any other acreage in separately owned tracts in the units.

The survey plat for each unit shall be prepared in accordance with the requirements for unit plats and survey plats adopted by the Commissioner of Conservation. It is recognized that the exterior boundary lines of the units, as surveyed, may differ from those lines as shown on the attached plat because of the requirement that by survey the geologically significant wells be correctly located with respect to each other and to the unit boundary lines that they control.

2. The separately owned tracts, mineral leases and other property interests within the units established herein are hereby pooled, consolidated and integrated in accordance with Section 10, Title 30 of Louisiana Revised Statutes of 1950, with each tract sharing in unit production in the proportion that the surface area of such tract bears to the entire surface area of the unit in which it is situated. Also, all operations on and production from each unit shall be considered operations on and production from each of the separate tracts within said unit and under the terms of each of the mineral leases affecting said tracts.

3. The unit wells are designated in accordance with Finding No. 5 heretof.

4. The operator of the units hereby established is designated in accordance with Finding No. 6 heretof.

5. Any wells drilled in the Parker B Sand, Reservoir A, outside of the units hereby established shall be located in accordance with Finding No. 4 heretof.

6. Except as they may be in conflict herewith, the provisions of the applicable Statute Orders shall govern the interpretation for and production of all and any from the Parker Ranch, Nevada, in the Black Bear Field, Concordia Parish, Louisiana.

7. When there is obtained additional geological and engineering information indicating a required change or revision of the well boundaries as defined herein, or which should indicate a required change or revision of other provisions of this order, then the party or parties in possession of this additional information shall petition the Commissioner of Conservation for a public hearing for the purpose of considering appropriate changes.

This Order shall be effective on and after
April 10, 1975.

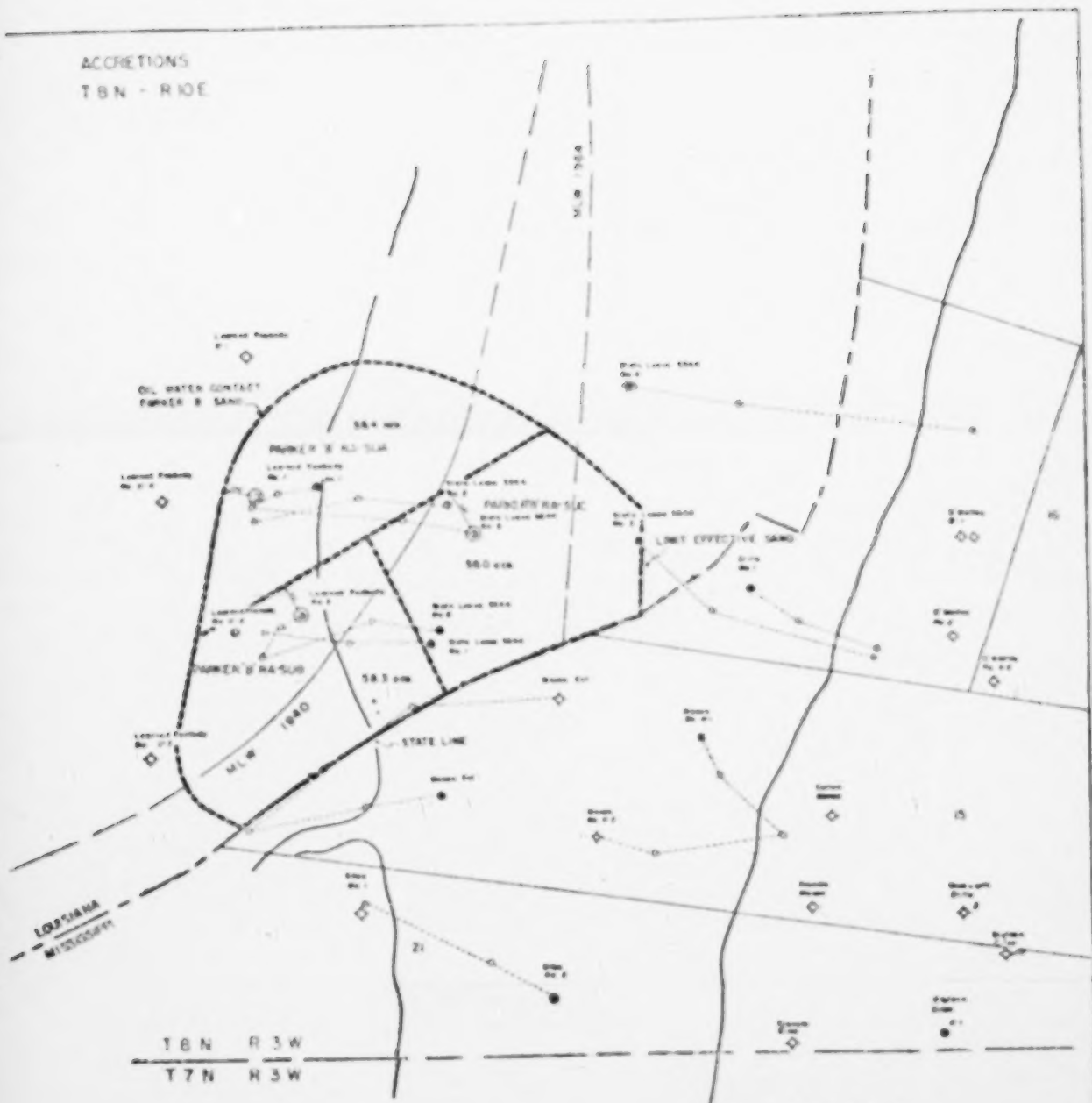
DEPARTMENT OF CONSERVATION
 OF THE STATE OF LOUISIANA


 R. J. G. THOMPSON
 COMMISSIONER OF CONSERVATION

FJB

EAR - 011

Pruett & Hughes
 Company Exhibit No. 4
 for Docket No. 75-87
 attached.



NOTE: WELL NAMES AND DEPTH TO WATER
DESIGNATIONS AS SHOWN ON THIS
PLAT DO NOT INDICATE LAND OR
LEASE EXPIRATION OR OTHERWISE

LEFEND-
DEWATED HOLIF

PROPOSED UNIT WILL ☒

ORDER NO. 887-B

PRUET B. HUGHES COMPANY

GILES BEND FIELD
CONCORDIA PARISH, LOUISIANA
ADAMS COUNTY, MISSISSIPPI

PROPOSED PARKER 'B' SAND UNITS

COPIES NO. 4

DATE: 4 - 10 - 78

147-148-149-150-151

STATE OF LOUISIANA
DEPARTMENT OF CONSERVATION
BATON ROUGE, LOUISIANA

February 21, 1972

ORDER NO. 857-A

Order establishing rules and regulations and creating
drilling and production units for the Parker "A" Sand,
Giles Bend Field, Concordia Parish, Louisiana.

* * * * *

Pursuant to power delegated under the laws of the State of Louisiana, and particularly Title 30 of Louisiana Revised Statutes of 1950, and after a Public Hearing held under Docket No. 72-40, in Shreveport, Louisiana, on January 27, 1972, upon the application of Pruet & Hughes Company, following legal publication of notice and notice in accordance with rules prescribed by the Commissioner of Conservation, the following order is issued and promulgated by the Commissioner of Conservation as being reasonably necessary to conserve the oil and gas resources of the State, to prevent waste as defined by law, to avoid the drilling of unnecessary wells, and otherwise, to carry out the provisions of the laws of this State.

DEFINITION

The Parker "A" Sand in the Giles Bend Field is hereby defined as that oil bearing sand encountered between the depths of 5,612 feet and 5,619 feet (electric log measurements) in the Pruet & Hughes Company (originally Dave Gammill) #1 Learned Peabody Well, located 12,345 feet South and 1,700 feet East of the common corner of Sections 15, 16 and 53, Township 8 North, Range 10 East, on alluvion to said Township 8 North, Range 10 East, Concordia Parish, Louisiana.

FINDINGS

The Commissioner of Conservation finds as follows:

1. That the establishment of rules and regulations and the creation of drilling and production units for the Parker "A" Sand in the Giles Bend Field, Concordia Parish, Louisiana, are necessary to insure orderly development, to prevent waste and to avoid the drilling of unnecessary wells.
2. That all available geological and engineering data indicate that the drilling and production units, as more particularly shown on the plat labeled "State Exhibit A for Docket No. 72-40," which plat is the same as applicant's Exhibit #4 with the exception of SU K and the additional SU L, are reasonable and should be adopted; that each such unit can be efficiently and economically drained by one well, and that the creation of such units should reasonably insure to each separate tract therein its just and equitable share of the reservoir content.
3. That evidence at the hearing indicated SU K of applicant's Exhibit #4 should be enlarged to take in acreage productive of Parker "A" Sand. SU L should be added in order to accommodate any future drilling which may be contemplated in that area.
4. That the separately owned tracts, mineral leases and other property interests within the units created herein should be force pooled and integrated in accordance with Section 10 of Title 30 of Louisiana Revised Statutes of 1950, with each tract sharing in production on a surface acreage basis of participation.
5. That unit wells for the units herein created should be designated as follows:

PARKER "A" SU E - Pruet & Hughes - State Lease 5544 #3 Well;
PARKER "A" SU J - Pruet & Hughes - Learned Peabody #U-2 Well;
PARKER "A" SU K - Pruet & Hughes - State Lease 5544 #1 Well.

6. That Pruet & Hughes Company should be designated as operator of all of the units created herein, except SU L.

7. That any wells hereafter drilled to the Parker "A" Sand, either upon or adjacent to the units established herein, should be located in accordance with State-wide Order No. 29-E, except that the locations of the unit wells already drilled, and referred to in Finding No. 5 above, should be approved. Further, if any Armstrong Sand wells now completed which may be recompleted as Parker "A" Sand wells, then such wells should also be approved as unit wells.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. The units, as more particularly shown on the plat labeled "State Exhibit A for Docket No. 72-40," attached hereto and made a part hereof, be and the same are hereby approved and adopted as drilling and production units for the production of oil from the Parker "A" Sand in the Giles Bend Field, Concordia Parish, Louisiana.

These units have not been surveyed, and when a survey plat of said units showing the exterior limits thereof, the total acreage therein, and the acreage in each separately owned tract, has been submitted to and accepted by the Commissioner of Conservation or any member of his staff, insofar as it shows the exterior limits of the unit, said plat shall be substituted for the above Exhibit and made a part of this Order by reference. In the event of conflicting claims of ownership of acreage in any unit, such acreage may be so identified on the survey plat. Such identification of acreage subject to conflicting claims shall not be construed as an acknowledgment of the validity of any such claims and shall not affect any other acreage in separately owned tracts in the unit.

2. The separately owned tracts, mineral leases and other property interests within the units established herein are hereby pooled, consolidated and integrated in accordance with Section 10, Title 30 of Louisiana Revised Statutes of 1950, with each tract sharing in unit production in the proportion that the surface area of such tract bears to the entire surface area of the unit in which it is located. Also, all operations on and production from each such unit shall be considered operations on and production from each of the separate tracts within said unit and under the terms of each of the mineral leases affecting said tracts.

3. Unit wells are hereby designated in accordance with Finding No. 5 above.

4. Pruet & Hughes Company is hereby designated as unit operator of all of the units created herein, except SU L.

5. Any wells drilled to the Parker "A" Sand, either upon or adjacent to the units established herein, shall be located in accordance with Finding No. 7 hereof.

6. Except as they may be in conflict herewith, the provisions of all applicable Statewide Orders shall govern the exploration for and production of oil from the Parker "A" Sand in the Giles Bend Field, Concordia Parish, Louisiana, as well as the method of allocating allowable production.

This Order shall be effective on and after February 1, 1972.

DEPARTMENT OF CONSERVATION
OF THE STATE OF LOUISIANA

(23) (P-2/21/72)

J. M. McJannet
COMMISSIONER OF CONSERVATION

ACCRETIONS
T 8 N - R 10 E



T 8 N - R 3 W
T 7 N - R 3 W

GILES LS

STATE EXHIBIT "A"
GILES BEND FIELD
CONCORDIA PARISH, LOUISIANA
PARKER "A" SAND UNITS

HEARING DOCKET NO. 72-40
ORDER NO. 887-A

SCALE - FEET

NOTE: WELL NAMES AND MEAN LOW WATER
DESIGNATIONS AS SHOWN ON THIS PLAT
DO NOT INDICATE LAND OR LEASE
BOUNDARIES OR OWNERSHIP

DEPARTMENT OF CONSERVATION, LOUISIANA GEOLOGICAL SURVEY

FEB 17, 1972

DATE: 1-27-72

DOCKET
NO. 72-40

Dept of Conservation Hearing Jan. 27, 1972

Base map after Stuart R. Hughes Co. Ex. 4

STATE OF LOUISIANA
DEPARTMENT OF CONSERVATION
BATON ROUGE, LOUISIANA

February 21, 1972

ORDER NO. 887

Order establishing rules and regulations and creating
drilling and production units for the Armstrong Sand,
Giles Bend Field, Concordia Parish, Louisiana.

* * * * *

Pursuant to power delegated under the laws of the State of Louisiana, and particularly Title 30 of Louisiana Revised Statutes of 1950, and after a Public Hearing held under Docket No. 72-39 in Shreveport, Louisiana, on January 27, 1972, upon the application of Pruet & Hughes Company, following legal publication of notice and notice in accordance with rules prescribed by the Commissioner of Conservation, the following order is issued and promulgated by the Commissioner of Conservation as being reasonably necessary to conserve the oil and gas resources of the State, to prevent waste as defined by law, to avoid the drilling of unnecessary wells and, otherwise, to carry out the provisions of the laws of this State.

DEFINITION

The Armstrong Sand in the Giles Bend Field is hereby defined as that oil bearing sand encountered between the depths of 5,504 feet and 5,558 feet (electric log measurements) in the Pruet & Hughes Company (originally Dave Gammill) #1 Learned Peabody Well, located 12,345 feet South and 1,700 feet East of the common corner of Sections 15, 16 and 53, Township 8 North, Range 10 East, on alluvion to said Township 8 North, Range 10 East, Concordia Parish, Louisiana.

FINDINGS

The Commissioner of Conservation finds as follows:

1. That the establishment of rules and regulations and the creation of drilling and production units for the Armstrong Sand in the Giles Bend Field, Concordia Parish, Louisiana, are necessary to insure orderly development, to prevent waste and to avoid the drilling of unnecessary wells.

2. That all available geological and engineering data indicate that the drilling and production units, as more particularly shown on the plat labeled "State Exhibit A for Docket No. 72-39," which plat is the same as applicant's Exhibit #4 with the exception of SU K and the additional SU L, are reasonable and should be adopted; that each such unit can be efficiently and economically drained by one well, and that the creation of such units should reasonably insure to each separate tract therein its just and equitable share of the reservoir content.

3. That evidence at the hearing indicated SU K of applicant's Exhibit #4 should be enlarged to take in acreage productive of Armstrong Sand. SU L should be added in order to accommodate any future drilling which may be contemplated in that area.

4. That the separately owned tracts, mineral leases and other property interests within the units created herein should be force pooled and integrated in accordance with Section 10 of Title 30 of Louisiana Revised Statutes of 1950, with each tract sharing in production on a surface acreage basis of participation.

5. That unit wells for the units herein created should be designated as follows:

ARMSTRONG SU F - Pruet & Hughes - State Lease 5544 #2 Well
ARMSTRONG SU G - Pruet & Hughes - Learned Peabody Well #1.

6. That Pruet & Hughes Company should be designated as operator of all of the units created herein, except SU L.

7. That any wells hereafter drilled to the Armstrong Sand, either upon or adjacent to the units established herein, should be located in accordance with State-wide Order No. 29-E, except that the locations of the unit wells already drilled, and referred to in Finding No. 5 above, should be approved.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. The units, as more particularly shown on the plat labeled "State Exhibit A for Docket No. 72-39," attached hereto and made a part hereof, be and the same are hereby approved and adopted as drilling and production units for the production of oil from the Armstrong Sand in the Giles Bend Field, Concordia Parish, Louisiana.

These units have not been surveyed, and when a survey plat of said units showing the exterior limits thereof, the total acreage therein, and the acreage in each separately owned tract, has been submitted to and accepted by the Commissioner of Conservation or any member of his staff, insofar as it shows the exterior limits of the units, said plat shall be substituted for the above Exhibit and made a part of this Order by reference. In the event of conflicting claims of ownership of acreage in any unit, such acreage may be so identified on the survey plat. Such identification of acreage subject to conflicting claims shall not be construed as an acknowledgment of the validity of any such claims and shall not affect any other acreage in separately owned tracts in the unit.

2. The separately owned tracts, mineral leases and other property interests within the units established herein are hereby pooled, consolidated and integrated in accordance with Section 10, Title 30 of Louisiana Revised Statutes of 1950, with each tract sharing in unit production in the proportion that the surface area of such tract bears to the entire surface area of the unit in which it is located. Also, all operations on and production from each such unit shall be considered operations on and production from each of the separate tracts within said unit and under the terms of each of the mineral leases affecting said tracts.

3. Unit wells are hereby designated in accordance with Finding No. 5 above.

4. Pruet & Hughes Company is hereby designated as unit operator of all of the units created herein, except SU L.

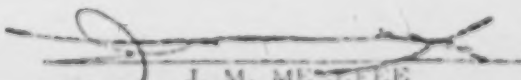
5. Any wells drilled to the Armstrong Sand, either upon or adjacent to the units established herein, shall be located in accordance with Statewide Order No. 29-E; provided, however, that the locations of each of the unit wells designated in Finding No. 5 of this Order are hereby approved.

6. Except as they may conflict herewith, the provisions of all applicable Statewide Orders shall govern the exploration for and production of oil from the Armstrong Sand in the Giles Bend Field, Concordia Parish, Louisiana, as well as the method of allocating allowable production.

This Order shall be effective on and after February 1, 1972.

DEPARTMENT OF CONSERVATION
OF THE STATE OF LOUISIANA

(FJB/r-2/21/72)


J. M. MENTELLE
COMMISSIONER OF CONSERVATION

ACCRETIONS
T 8 N - R 10 E



X = 2,336,700'
T 8 N - R 3 W
T 7 N - R 3 W

STATE EXHIBIT "A"
GILES BEND FIELD
CONCORDIA PARISH, LOUISIANA
ARMSTRONG SAND UNITS

NOTE: WELL NAMES AND MEAN LOW WATER DESIGNATIONS AS SHOWN ON THIS PLAT DO NOT INDICATE LAND OR LEASE BOUNDARIES OR OWNERSHIP.

HEARING DOCKET NO. 72-39
ORDER NO. 687
SCALE - FEET

DEPARTMENT OF CONSERVATION, LOUISIANA GEOLOGICAL SURVEY
FEB. 9, 1972
Dept of Conservation Hearing Jan. 27, 1972
Based upon the Report of E. J. Hughes, Co. E. 4

STATE OF LOUISIANA
DEPARTMENT OF CONSERVATION
BATON ROUGE, LOUISIANA

April 28, 1975

ORDER NO. 887-B

Order concerning rules and regulations and the creation of three drilling and production units for the Parker B Sand, Reservoir A, in the GILES BEND FIELD, Concordia Parish, Louisiana.

* * * * *

Pursuant to power delegated under the laws of the State of Louisiana, and particularly Title 30 of Louisiana Revised Statutes of 1950, and after a public hearing held in Shreveport, Louisiana, on April 10, 1975, under Docket No. 75-87, upon the application of Pruet & Hughes Company, following legal publication of notice and notice in accordance with rules prescribed by the Commissioner of Conservation, the following order is issued and promulgated by the Commissioner of Conservation as being reasonably necessary to conserve the natural resources of the State, to prevent waste as defined by law, to avoid the drilling of unnecessary wells and otherwise to carry out the provisions of the laws of this State.

DEFINITION

The Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana, is hereby defined as being that oil and gas bearing sand encountered between the depths of 5,622 feet and 5,662 feet (electrical log measurements) in the Pruet & Hughes (originally Dave Garndall) No. 1 Learned-Peabody Well, located 12,345 feet South and 1,700 feet East of the common corner of Sections 15, 16 and 53, Township 8 North, Range 10 East, an alluvion to said Township 8 North, Range 10 East, Concordia Parish, Louisiana.

FINDINGS

The Commissioner of Conservation finds as follows:

1. That the establishment of rules and regulations and the creation of three drilling and production units for the Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana, are necessary to insure orderly development, to prevent waste, and to avoid the drilling of unnecessary wells.
2. That the available geological and engineering data indicate that the units, all as more particularly shown on the plat labeled "Pruet & Hughes Company Exhibit No. 4 for Docket No. 75-87," are reasonable and should be adopted; that each unit can be efficiently and economically drained by one well located thereon and that creation of such units should reasonably assure to each separate tract its just and equitable share of the contents of the reservoir.
3. That the separately owned tracts, mineral leases and other property interests within the unit created herein should be force pooled and integrated with each separate tract sharing in unit production on a surface acreage basis of participation.

4. That any wells drilled to the Parker B Sand, Reservoir A, outside of the units herein established should be located in accordance with Statewide Order No. 29-E.
5. That the wells as shown on the unit plat should be designated as the unit wells for the respective units in which they are located.
6. That Pruet & Hughes Company should be designated as operator of the units created herein.

O R D E R

NOW, THEREFORE, IT IS ORDERED THAT:

1. The drilling and production units shown on the plat labeled "Pruet & Hughes Company Exhibit No. 4 for Docket No. 75-87," attached hereto and made a part hereof, be and they are hereby approved and adopted as drilling and production units for the exploration for and production of oil and gas from the Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana.

The units have not been surveyed, and when a survey plat of said units showing the exterior limits thereof, the total acreage therein, and the acreage in each separately owned tract, has been submitted to and accepted by the Commissioner of Conservation or any member of his staff, insofar as it shows the exterior limits of the units, said plat shall be substituted for the above exhibit and made a part of this order by reference. In the event of conflicting claims of ownership of acreage in any unit, such acreage may be so identified on the survey plat. Such identification of acreage subject to conflicting claims shall not be construed as an acknowledgment of the validity of any such claims, and shall not affect any other acreage in separately owned tracts in the units.

The survey plat for each unit shall be prepared in accordance with the requirements for unit plats and survey plats adopted by the Commissioner of Conservation. It is recognized that the exterior boundary lines of the units, as surveyed, may differ from those lines as shown on the attached plat because of the requirement that by survey the geologically significant wells be correctly located with respect to each other and to the unit boundary lines that they control.

2. The separately owned tracts, mineral leases and other property interests within the units established herein are hereby pooled, consolidated and integrated in accordance with Section 10, Title 30 of Louisiana Revised Statutes of 1950, with each tract sharing in unit production in the proportion that the surface area of such tract bears to the entire surface area of the unit in which it is situated. Also, all operations on and production from each unit shall be considered operations on and production from each of the separate tracts within said unit and under the terms of each of the mineral leases affecting said tracts.

3. The unit wells are designated in accordance with Finding No. 5 hereof.

4. The operator of the units hereby established is designated in accordance with Finding No. 6 hereof.

5. Any wells drilled to the Parker B Sand, Reservoir A, outside of the units hereby established shall be located in accordance with Finding No. 4 hereof.


6. Except as they may be inconsistent herewith, the provisions of the applicable Statewide Rules shall govern the application for and granting of oil and gas from the Parker 3 Unit, Tract No. 4, in the Giles Loop Field, Concordia Parish, Louisiana.

7. When there is obtained additional geological and engineering information indicating a required change or revision in the unit boundaries as defined herein, or which would indicate a required change or revision of other provisions of this order, then the party or parties in possession of this additional information shall petition the Commissioner of Conservation for a public hearing for the purpose of considering appropriate changes.

This Order shall be effective on and after

April 10, 1973.

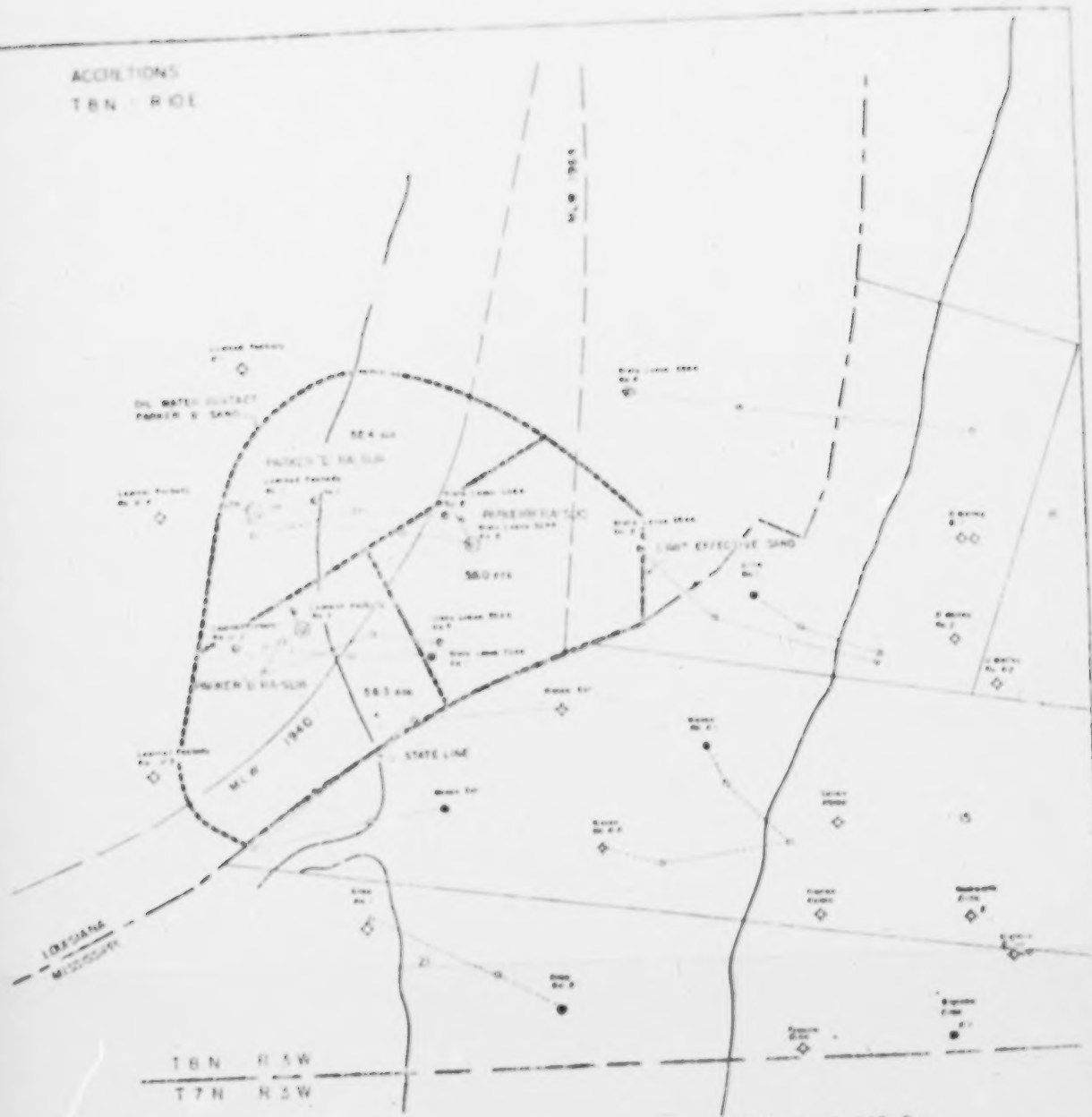
DEPARTMENT OF CONSERVATION
OF THE STATE OF LOUISIANA


R. T. NELSON
COMMISSIONER OF CONSERVATION

FJB

RJR - Oil

Fruct & Baches
Company Exhibit No. 4
for Docket No. 75-87
attached.



NOTE: BILL NAMES AND MEAL LVE DATE
 DESIGNATIONS AS SHOWN ON THIS
 PLAT TO BE: PLEASE FILL IN
 LEAVE FORWARDED ON CONTINUED

LEONARD
DE VRIES & SONS

PRICE ON THE LEFT SIDE

RECEIVED
LIBRARY
JUN 19 1979
J. O'NEILL AND HIS
CLARK COUNTY
JUN 19 1979

ORDER NO. 287-B

PRUITT & HUGHES COMPANY

GILES BEND FIELD
CONCORDIA PARISH, LOUISIANA
ADAMS COUNTY, MISSISSIPPI

PRODUCED PARKER 'B' SAND UNITS

© 2001 Blackwell Science Ltd

1650 • J. Neurosci., April 23, 2008 • 28(16):1643–1650

STATE OF MISSISSIPPI
ADAMS COUNTY

I, B. Odell Anders, Chancery Clerk in and for
said County and State do hereby certify that the
above and foregoing instrument is a true and cor-
rect copy of original as filed over the 19 day
of June A.D. 19 29
in the office of the Chancery Clerk, Adams
County, Mississippi.

Given under my hand and seal of office
this 22 day of September, 19 29

B. ODELL ANDERS, Chancery Clerk

By Ed McCallum D. C.

United States District Court

for the

SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

I, Harvey G. Henderson, Clerk of the United States District Court for the Southern District of Mississippi, and keeper of the records and seal thereof, hereby certify that the documents attached hereto are true copies of Petition for Removal to U. S. D. C. for S/D of Miss., Western Division from the Chancery Court of Adams County, Miss., C.A. No. W79-0069(R), styled "Dille vs. Bruce & Hughes, et al" now remaining among the records of the Court.

In testimony whereof I hereunto sign my name and affix the seal of said Court, in said District, at Jackson, this 6th day of August 1979.

Harvey G. Henderson
Clerk.

I, Dan M. Russell, Jr., United States District Judge for the Southern District of Mississippi, do hereby certify that Harvey G. Henderson, whose name is above written and subscribed, is and was at the date thereof, Clerk of said Court, duly appointed and sworn, and keeper of the records and seal thereof, and that the above certificate by him made, and his attestation or record thereof, is in due form of law.

August 6, 1979.

Dan M. Russell, Jr.
United States District Judge

I, Harvey G. Henderson, Clerk of the United States District Court for the Southern District of Mississippi, and keeper of the seal thereof, hereby certify that the Honorable Dan M. Russell, Jr., whose name is within written and subscribed, was on the 6th day of August 1979, and now is Judge of said court, duly appointed, confirmed, sworn, and qualified; and that I am well acquainted with his handwriting and official signature and know and hereby certify the same within written to be his.

In testimony whereof I hereunto sign my name, and affix the seal of said Court at the city of Jackson, in said State, on this 6th day of August 1979.

Harvey G. Henderson
Clerk.

**In The
United States District Court For
The Southern District of Mississippi
Western Division**

Avery B. Dille, Jr.

Plaintiff

VS.

C.A. No. W 79-0069(R)

Pruet & Hughes Company (A Partnership), Henry W. Dille,
Richard T. Dille, Chesley Pruet, Robert Mosabacher, Bruce
Sciscoe, Dudley J. Hughes, Verne L. Culbertson, Benton R.
Vernon, Jr., Dave Gammill, Bates Oil Corporation, R. E.
Williams and the State of Louisiana

Defendants

**PETITION FOR REMOVAL TO THE UNITED STATES
DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
MISSISSIPPI, WESTERN DIVISION**

The undersigned defendants hereby file this
their petition to remove the foregoing cause to the
United States District Court for the Southern Dis-
trict of Mississippi, Western Division, and respect-
fully show to this Honorable Court:

1

That this is a civil action which arises under
the Constitution of the United States and an act of
Congress approved April 6, 1812, admitting the
State of Louisiana into the Union of the United
States of America, which act is found in Chapter 50
of the United States Statutes at Large, Volume 2,

Page 701, and an act of Congress approved March 1, 1817, admitting the State of Mississippi into the Union of the United States of America, which act is found at 3 Stat. 348, Chapter 23; that the real question in dispute between the plaintiff and the defendants is the location of the boundary line between the State of Louisiana and the State of Mississippi for the pertinent periods set forth in plaintiff's complaint; that the determination of such boundary involves an interpretation of such acts of Congress setting forth the boundaries and determination of the boundaries between said two states; that this controversy further involves the equal footing doctrine of the states of the United States; it would further appear to your petitioners, and it is so alleged, that the Treaty of Peace concluded between the United States and Great Britain September 3, 1783, 8 Stat. 80, is also involved in this controversy, including an interpretation thereof as it affects or may affect such boundary between the State of Mississippi and the State of Louisiana can only be made pursuant to the Constitution of the United States and Federal law involving a question of interpretation and application of Federal law and jurisdiction. The above described action is a civil action in which this Court has original jurisdiction in respect to the Federal questions involved under the provisions of Title 28 United States Code Section 1441.

2.

That this controversy also involves a dispute

between citizens of different states and is a separate and independent claim between citizens of different states in that plaintiff is a citizen of the State of Mississippi and each of Chesley Pruet, Robert Mosbacher, Bruce Sciscoe, and Bates Oil Corporation is a citizen of a state other than the State of Mississippi; that plaintiff's complaint states a separate and independent claim as against each of said defendants last mentioned who is a nonresident of the State of Mississippi; that Henry W. Dille and Richard T. Dille are citizens of a state or country diverse to the citizenship of said defendants; that the amount in controversy as to each of said defendants exceeds the sum of \$10,000.00, exclusive of interest and costs, with respect to such separate and independent claim as to each said defendant who is a nonresident of the State of Mississippi; the above described action is a civil action in which this Court has original jurisdiction in respect to such separate and independent claim mentioned above under the provisions of Title 28 United States Code 1441 in that it is a civil action wherein the matter in controversy with respect to such separate and independent claim of the plaintiff against the respective defendants who are nonresidents of the State of Mississippi exceeds the sum or value of \$10,000.00, exclusive of interest and costs.

3.

Attached is copy of all orders, process, plead-

ings and other documents served upon the undersigned defendants and required to be attached and filed with this petition.

4.

Richard R. Dille and Henry W. Dille are not required to join in this petition for removal of this cause as each of such parties have aligned themselves as plaintiffs as the undersigned defendants have been informed by counsel for the named plaintiff, Avery H. Dille, Jr.

5.

Petitioners file herewith a bond with good and sufficient surety in the penal sum of Five Hundred and No/100 Dollars (\$500.00) conditioned as provided by Title 28, United States Code, Section 1446(d), that petitioners will pay all costs and disbursements incurred by reason of the removal proceedings hereby brought should it be determined that this action is not removable or is improperly removed.

WHEREFORE, petitioners pray that the above action now pending against the defendants in the Chancery Court of Adams County, Mississippi, be removed to the United States District Court for the Southern District of Mississippi, Western Division.

Cecil A. Ford of
Heidelberg, Woodliff & Franks
1030 Capital Towers
Jackson, Mississippi 39201
Telephone: (601) 948-3800

Attorney for Dudley J. Hughes

Thomas R. Crews, of
Thompson, Alexandria & Crews
Thompson Building
118 North Congress Street
Jackson, Mississippi 39205

Attorney for Bates Oil Corpora-
tion

Cecil A. Ford, of
Heidelberg, Woodliff & Franks
1030 Capital Towers
Jackson, Mississippi 39201
Telephone: (601) 948-3800
and

H. Derrell Dickens
814 Lion Oil Building
El Darado, Arkansas 71730
Telephone: (501) 862-5801

Attorney for Pruet & Hughes Company (a partnership), Chesley Pruet, Robert Mosbacher, Bruce Sciscoe, Verne L. Culbertson, Benton R. Vernon, Jr., Dave Gammill, and R. E. Williams

Assistant Attorney General
Louisiana Department of
Justice
Baton Rouge, Louisiana
Telephone: (504) 925-4113

Attorney for the State of
Louisiana

STATE OF MISSISSIPPI)
SS:
COUNTY OF HINDS)

Cecil A. Ford, one of the attorneys for the defendants named above states that the foregoing matters set forth in said petition are true and correct to his information, knowledge and belief.

Dated this 19th day of July, 1979.

Cecil A. Ford

Subscribed and sworn to before me, a Notary Public in and for Hinds County, Mississippi on the 19th day of July, 1979.

Notary Public

My Commission Expires:

To the Sheriff of _____ County, In _____ State:

You are hereby commanded to summon _____ Prust & Hughes Co. by service of _____ process

on Dudley J. Hughes, PARTNER 1111 Capital Towers

JACKSON, MO. 32205

if to be found in your County, to appear before the Chancery Court of the County of _____

in the State of Mississippi, at a term of said Court to be held on the _____ Monday

of _____ A. D. 19 _____ at the Courtouse in the _____ City of _____

_____ Mississippi, then and there to plead, answer, or demur, to the

Bill Of Complaint To Establish Boundary Line And To Recover Oil Royalties

of _____ Avery B. Dille, Jr.

to which _____ Defendant _____ And have there and then this writ.

Given under my hand and seal of said Court, and issued this the _____ day of _____

_____ A. D. 19 _____

Noted by _____ Clerk, _____ & Parker (Vicksburg)

J. ODELL ANDERS

Clerk

By _____ D. C.

STAFF OF THE COURT
COUNTY OF _____
Dudley J. Hughes
Prust & Hughes Co.
June 21 1929
J. ODELL ANDERS
June 21 1929
J. ODELL ANDERS

No. _____
County, Miss
CHANCERY COURT
vs.
SUMMONS
Title _____
_____ 19 _____ Monday
_____ A. D. 19 _____
_____ day of _____
_____ A. D. 19 _____
_____ Sheriff _____
_____ D. S. _____
_____ day of _____
_____ A. D. 19 _____
_____ J. ODELL ANDERS _____ Clerk
_____ Sheriff _____
_____ Defendant _____
_____ and returning writ _____

Findings

Chesley Prust

Jackson, Ma. 39205

9-2-9

Halcher

10

20

June

J. ODFELL ANDERS

Clerk

B.

Chasley Pruet

June 21 79
Jual Carter

Cassidy, Alice

THANCERY COURT

SUMMONS

10 _____

11 _____

A. D. 19__

for me this the _____ day of _____

A.D. 19____

67-9119

DS

36

A.D. 1979

209-2

2

Summary

Defendant's Name: _____

for reference for

1

CITATION NOTICE

THE STATE OF MISSISSIPPI:

Adams COUNTYTo Robert Montacher

P.O. Address

21st Floor, Capital National
Conoco Building
Houston, Texas 77002

You are summoned to appear before the Chancery County of the County
of Adams, in said State, on the second MONDAY of
August A.D. 19 79, to defend the Suite No. 28,592

in said Court of Avery D. Bille, Jr.

wherein you are a defendant.

This 20 day of June A.D. 19 79.J. Odell Anders

Clerk.

Ward, Martin, Terry, Way & Attys. By S/ Lill McCollum D.C.
Parker (Vicksburg)
Once a week for three successive weeks.

THE STATE OF MISSISSIPPI,
COUNTY OF ADAMS

Before the undersigned authority
of said county, personally appeared Linda Fluty
the clerk of a public newspaper printed and published in the city of Natchez, and County aforesaid,
called the Natchez Democrat who, being duly sworn, doth depose and say that publication of the
notice hereto affixed has been made in said paper for three successive weeks, to wit:

CITATION NOTICE

The State of Mississippi
Adams County
To Robert M. Slaughter P.O. Address
Star View, Capital National Center
Building, Houston, Texas 77002

You are summoned to appear before the Chancery Court of the County of Adams, in said State, on the second MONDAY of August A.D. 1979 to defend the Suit No. 28386 in said Court of Avery B. Ditt, Jr. wherein you are a defendant.

This 20 day of June A.D. 1979

J. Odell Anders
Clerk

By: L. McCasium, D.C.

Ward, Martin, Terry, Way &
Parker (VICKSBURG) attys.
(2024)

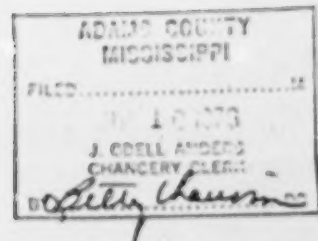
Vol. <u>115</u>	No. <u>173</u>	dated the <u>22</u> day of <u>June</u> , 19 <u>79</u>
Vol. <u>115</u>	No. <u>180</u>	dated the <u>29</u> day of <u>June</u> , 19 <u>79</u>
Vol. <u>115</u>	No. <u>187</u>	dated the <u>6</u> day of <u>July</u> , 19 <u>79</u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>

Commencing on the 22 day of June, 1979
and ending on the 6 day of July, 1979

Linda Fluty

Sworn to and subscribed to this 6 day of July,
A.D., 1979, before me.

by [Signature]
J. Odell Anders
Chancery Clerk
March 23, 1982



CITATION NOTICE

28,592

THE STATE OF MISSISSIPPI:

Adams COUNTY

To Bruce Scisroe P.O. Address P.O. Box 867 Shreveport, Louisiana 71102

You are summoned to appear before the Chancery County of the County
of Adams, in said State, on the Second MONDAY of
August A.D. 19 79, to defend the Suite No. 28,592
in said Court of Avery D. Dille, Jr.
wherein you are a defendant.

This 20 day of June A.D. 19 79.

J. Odell Anders
Clerk.

Ward, Martin, Terry, Way & Attys. By S/ Lil McCollum D.C.
Parker (Vicksburg)
Once a week for three successive weeks.

THE STATE OF MISSISSIPPI,
COUNTY OF ADAMS

Before the undersigned authority
of said county, personally appeared Linda Fluty
the clerk of a public newspaper printed and published in the city of Natchez, and County aforesaid,
called the Natchez Democrat who, being duly sworn, doth depose and say that publication of the
notice hereto affixed has been made in said paper for three successive weeks, to wit:

CITATION NOTICE

The State of Mississippi
Adams County
To: Bruce Graham, P. O. Address
P.O. Box 807 Shreveport, Louisiana
71108

You are summoned to appear before
the Chancery Court of the
County of Adams, in said State
on the second Monday of August
A.D. 1979, to defend the said No.
115 in said Court of Avers B
Dine, in wherein you are a respondent.

This 26 day of June A.D. 1979

J. Odell Andrie
Clerk

By (s) L. McCollum D.C.

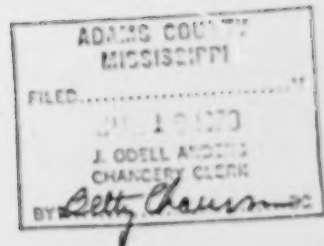
Ward Martin, Term, Wax &
Parsons (Shreveport) Attys.
(22-24)

Vol. <u>115</u>	No. <u>173</u>	dated the <u>22</u> day of <u>June</u> , 19 <u>79</u>
Vol. <u>115</u>	No. <u>160</u>	dated the <u>29</u> day of <u>June</u> , 19 <u>79</u>
Vol. <u>115</u>	No. <u>167</u>	dated the <u>6</u> day of <u>July</u> , 19 <u>79</u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Commencing on the <u>22</u> day of <u>June</u> , 19 <u>79</u>		
and ending on the <u>6</u> day of <u>July</u> , 19 <u>79</u>		

Linda Fluty

Sworn to and subscribed to this 6 day of July,
A.D. 1979, before me.

[Signature]
my commission expires
March 23, 1982



CITATION NOTICE

THE STATE OF MISSISSIPPI:

30

Adams COUNTYTo Dudley J. Hughes P.O. Address Post Office Box 31
El Dorado, Arkansas 71730

You are summoned to appear before the Chancery County of the County
 of Adams, in said State, on the Second MONDAY of
August A.D. 19 79, to defend the Suite No. 29,592
 in said Court of Avery D. Dille, Jr.
 wherein you are a defendant.

This 20 day of June A.D. 19 79.J. Odell Anders
Clerk

Ward, Martin, Terry, Way & Attys. By S/ Lil McCollum D.C.
Parker (Vicksburg)
 Once a week for three successive weeks.

THE STATE OF MISSISSIPPI,
COUNTY OF ADAMS

Before the undersigned authority
of said county, personally appeared Linda Fluty
the clerk of a public newspaper printed and published in the city of Natchez, and County aforesaid,
called the Natchez Democrat who, being duly sworn, doth depose and say that publication of the
notice hereto affixed has been made in said paper for three successive weeks, to-wit:

CITATION NOTICE

The State of Mississippi
Adams County
To Dudley J. Hughes P.O. Address
Post Office Box 31 El Dorado,
Arkansas 71730

You are summoned to appear before the Chancery Court of the County of Adams in said State, on the Second MONDAY of August A.D. 1979, to defend the Suit No. 38,598 in said Court of Avery B. Dille, Jr. whereas you are a defendant.
This 30 day of June A.D. 1979

J. Odell Anders
Clerk

By: Lt. Lt. McCullum D.C.

Ward, Martin, Terry, Way &
Parlier (Vicksburg) Attys.
(22-284)

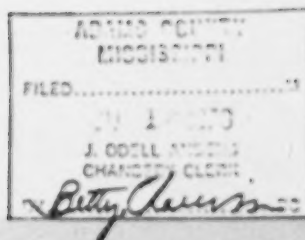
Vol. <u>115</u>	No. <u>173</u>	dated the <u>22</u> day of <u>June</u> , 19 <u>79</u>
Vol. <u>115</u>	No. <u>180</u>	dated the <u>29</u> day of <u>June</u> , 19 <u>79</u>
Vol. <u>115</u>	No. <u>187</u>	dated the <u>6</u> day of <u>July</u> , 19 <u>79</u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Commencing on the <u>22</u> day of <u>June</u> , 19 <u>79</u>		
and ending on the <u>6</u> day of <u>July</u> , 19 <u>79</u>		

Linda Fluty

Sworn to and subscribed to this
A.D. 1979, before me.

6 day of July

By: [Signature]
My commission expires
March 23, 1982



THE STATE OF MISSISSIPPI

20,592

To the Sheriff of Winona County, In Said State:

You are hereby commanded to summon Vernie L. Culbertson

Wagnolia Federal Savings & Loan Building

Jackson, Mo. 66205

if to be found in your County, to appear before the Chancery Court of the County of Winona

in the State of Mississippi, at a term of said Court to be held on the Second Monday

of August A. D. 19 79, at the Courthouse in the City of

Winona Mississippi, then and there to plead, answer, or demur, to the

Bill of Complaint to Establish Boundary Line And To Recover
Oil Royalties

of Avery B. Dille, Jr.

Avery B. Dille, Jr.

to which he is Defendant And have there and then this writ.

Given under my hand and seal of said Court, and issued this the 20 day of

June A. D. 19 79

Attorney for Plaintiff, Martin, Perry,
Way & Parker

J. ODELL ANDERS

Clerk.

By Lil McCollum D. C.

NOTICE TO DEFENDANT

Vernie L. Culbertson

21

June 29
James Carter
Not at this address

No. _____
County, Miss.

CHANCERY COURT

SUMMONS

able _____ 19 _____ Monday

A. D. 19 _____

ed by me this the _____ day of

A. D. 19 _____

Sheriff _____

D. S. _____

ed and filed this the 26 day of

June A. D. 19 79

J. ODELL ANDERS

Clerk

D. C. _____

OF _____ SHERIFF

summons on _____ Defendant

and returning writ _____

THE STATE OF MISSISSIPPI

23,592

To the Sheriff of REXNA Hinds County, In Said State:

You are hereby commanded to summon Penton T. Warren, Jr.

116 Park Lane

Jackson, 's, 39205

if to be found in your County, to appear before the Chancery Court of the County of ADAMS

in the State of Mississippi, at a term of said Court to be held on the Second Monday

of AUGUST A. D. 19 72, at the Courthouse in the CITY of

JACKSON, Mississippi, then and there to plead, answer, or demur, to the

Bill Of Complaint To Establish Boundary Line And To Recover
Oil Royalties

of Avery B. Dille, Jr.

to which he is Defendant And have there and then this writ.

Given under my hand and seal of said Court, and issued this the 23 day of
June 79

A. D. 19 79

J. ODELL ANDERS

Clerk.

Attorney: Ward, Martin, Terry,
Way & Parker (Vicksburg)

By Lil McCallum D. C.

THE STATE OF MISSISSIPPI

2028

To the Sheriff of _____ County, In Said State:

You are hereby commanded to surrender

111 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 1041 1042 1043 1044 1

39205

if to be found in your County; to appear before the Chancery Court of the County of _____ & to be sworn to.

in the State of Mississippi, at a term of said Court to be held on the _____ Monday

of _____ A. D. 19⁷ at the Courtroom in the _____ of _____

_____, Mississippi, then and there to plead, answer, or demur, to the

[illegible]

Oil Royalties

Avery S. Dille, Jr.

in which _____ he _____ is _____ Defendant _____ And have there and then this writ.

Given under my hand and seal of said Court, and issued this the 26 day of

_____, A. D. 19__

Way & Parson (Victrola)

Way & Parcer (Victrola)

By Neil McCallum D C

Wm. Dainell

June 21 79
Jared Carter

Good Earth

2

County, Miss.

CHANCERY COURT

SUMMONS

19

Notes

100

2
C
4

1

2

[illegible]

—

NAME OF _____ STREET _____

ing business as a District.

Dr. Robert L. ...

—

Total _____

THE STATE OF MISSISSIPPI

25,597

To the Sheriff of Lincoln County, In Said State:

You are hereby commanded to summon Bates Oil Corporation
by service of process on C.T. Corporation System

118 North Congress Street Jackson, Ms. 39205

if to be found in your County, to appear before the Chancery Court of the County of Lincoln
in the State of Mississippi, at a term of said Court to be held on the Second Monday
of August A. D. 19 79 at the Courthouse in the City of
Hatchers Mississippi, then and there to plead, answer, or demur, to the

Bill Of Complaint To Establish Ownership And To Recover
Oil Royalties

of Avery B. Dille, Jr.

to which he is Defendant And have there and then this writ
Given under my hand and seal of said Court, and issued this the 20 day of
July A. D. 19 79

Attest: Carl Martin, Clerk,
Hay & Parker (Vicksburg)

J. ODELL ANDERS Clerk

By Lil McCollum D. C.

Bates Oil Corporation
C.T. Corporation System
Shawn Lawrence and son
21
Gene
Jewel Carter

No. _____	County, Miss _____
CHANCERY COURT	
SUMMONS	
_____	_____ 19. _____
_____	_____ Monday
_____	_____ A. D. 19 _____
_____	_____ day of _____
_____	_____ A. D. 19 _____
_____	_____ Sheriff _____
_____	_____ D. S. _____
_____	_____ day of _____
_____	_____ A. D. 19 <u>79</u>
_____	_____ Clerk _____
_____	_____ D. C. _____
_____	_____ SHERIFF _____
_____	_____ Defendant _____
_____	_____ Sheriff and returning writ _____
_____	_____ Total _____

CITATION NOTICE

THE STATE OF MISSISSIPPI:

_____ Adams _____ COUNTY

To _____ P. E. Williams _____ P.O. Address _____ 402 Dupont Building
Memphis, Tennessee 38101

You are summoned to appear before the Chancery Court of the County
of _____ Adams _____, in said State, on the _____ Second _____ MONDAY of
_____ August _____ A.D. 19 79, to defend the Suite No. _____ 29,592 _____
in said Court of _____ Avery D. Dille, Jr. _____
wherein you are a defendant.

This _____ 20 _____ day of _____ June _____ A.D. 19 79.

_____ J. Odell Anders _____

Clerk.

Ward, Martin, Terry, May & _____ Attys. By s/ Lil McCollum _____ D.C.
Parker (Vicksburg)
Once a week for three successive weeks.

THE STATE OF MISSISS., PI.
COUNTY OF ADAMS

Before the undersigned authority
of said county, personally appeared Linda Fluty
the Clerk of a public newspaper printed and published in the city of Natchez, and county aforesaid,
called the Natchez Democrat who, being duly sworn, doth depose and say that publication of the
notice hereto affixed has been made in said paper for three successive weeks, to wit:

CITATION NOTICE

The State of Mississippi
Adams County
To B.E. Williams, P.O. Address
402 Thicket Building Memphis
Tennessee 38101

You are summoned to appear
before the Chancery Court of the
County of Adams, in said State,
on the Second WEDNESDAY of August
A.D. 1979, to defend the suit No.
115 in said Court of Avery B.
Dixon Jr. wherein you are a defendant.

This 22 day of June A.D. 1979

J. Odell Anders
Clerk

By: Lt. Ed McMillam, D.C.

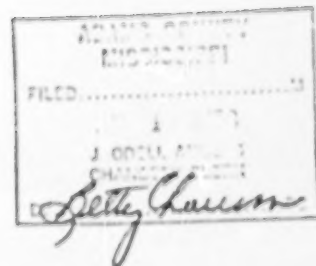
Ward, Martin, Terry, Way &
Parker (Vicksburg), Attys.
(22-24)

Vol. <u>115</u>	No. <u>173</u>	dated the <u>22</u> day of <u>June</u> , 19 <u>79</u>
Vol. <u>115</u>	No. <u>180</u>	dated the <u>29</u> day of <u>June</u> , 19 <u>79</u>
Vol. <u>115</u>	No. <u>187</u>	dated the <u>6</u> day of <u>July</u> , 19 <u>79</u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Vol. <u> </u>	No. <u> </u>	dated the <u> </u> day of <u> </u> , 19 <u> </u>
Commencing on the <u>22</u> day of <u>June</u> , 19 <u>79</u>		
and ending on the <u>6</u> day of <u>July</u> , 19 <u>79</u>		

Linda Fluty

Sworn to and subscribed to this 6 day of July
A.D. 1979, before me.

by [Signature]
my commission expires
7/7



CITATION NOTICE

THE STATE OF MISSISSIPPI:

Adams COUNTY Wooddale Tower, Suite 717
 State of Louisiana 1885 Wooddale Boulevard
 To Honorable William J. Guste, Jr. P.O. Address Baton Rouge, Louisiana 70801
Attorney General
 You are summoned to appear before the Chancery County of the County
 of Adams, in said State, on the Second MONDAY of
August A.D. 19 79, to defend the Suite No. 29,592
 in said Court of Avery D. Dille, Jr.
 wherein you are a defendant.

This 20 day of June A.D. 19 79.

J. Odell Anders

Clerk.

Ward, Martin, Terry, Way & Attys. By S/ Lili McCollum D.C.
Parker (Vicksburg)
 Once a week for three successive weeks.

THE STATE OF MISSISSIPPI,
COUNTY OF ADAMS

Before the undersigned authority Linda Fluty
of said county, personally appeared _____
the clerk of a public newspaper printed and published in the city of Natchez, and County aforesaid,
called the Natchez Democrat who, being duly sworn, doth depose and say that publication of the
notice hereto affixed has been made in said paper for three successive weeks, to wit:

CITATION NOTICE

The State of Mississippi
Adams County
To State of Louisiana, Honorable
William J. Guste, Jr., Attorney General,
P.O. Address: Woodlake Tower,
Suite 717, 1800 Woodlake Boulevard,
Baton Rouge, Louisiana 70802.

You are summoned to appear before
the Chancery Court of the County
of Adams, in said State, on the
second MONDAY of August, A.D.
1979, to defend the Suit No. 28-985 in
said Court of Avery B. Dille, Jr.
against you and a defendant.
This 26 day of June A.D. 1979.

J. Collie Aubrey
Clerk

By (s) L. McCollum, D.C.

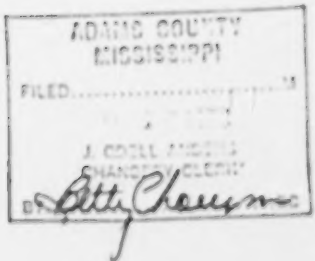
Ward, Martin, Terry, War &
Parker (Vicksburg) Attys.
(22-264)

Vol. 115 No. 173 dated the 22 day of June, 1979
Vol. 115 No. 180 dated the 29 day of June, 1979
Vol. 115 No. 187 dated the 6 day of July, 1979
Vol. _____ No. _____ dated the _____ day of _____, 19____
Vol. _____ No. _____ dated the _____ day of _____, 19____
Vol. _____ No. _____ dated the _____ day of _____, 19____
Vol. _____ No. _____ dated the _____ day of _____, 19____
Vol. _____ No. _____ dated the _____ day of _____, 19____
Commencing on the 22 day of June, 1979
and ending on the 6 day of July, 1979

Linda Fluty

Sworn to and subscribed to this
A.D. 1979, before me.

by [Signature]
my Commission expires
March 23, 1982



AVERY B. DILLE, JR.

PLAINTIFF

VS.

NO. 28,592

PRUET & HUGHES COMPANY, (A PARTNERSHIP);
HENRY W. DILLE, RICHARD T. DILLE,
CHESLEY PRUET, ROBERT MOSTACHER,
BRUCE SCISCOE, DUDLEY J. HUGHES, VERNE L.
CULBERTSON, BENTON R. VERNON, JR., DAVE
GAMMILL, BATES OIL CORPORATION, R. E.
WILLIAMS AND THE STATE OF LOUISIANA

DEFENDANTS

BILL OF COMPLAINT TO ESTABLISH BOUNDARY LINE
AND TO RECOVER OIL ROYALTIES

NOW COMES, Avery B. Dille, Jr., identical with A. B. Dille, Jr., and Avery Benjamin Dille, Jr. and files this his Bill of Complaint against Pruet & Hughes Company, (a Partnership), Henry W. Dille, identical with Henry Ward Dille, Richard T. Dille, identical with Richard Turner Dille, Chesley Pruet, Robert Mostacher, Bruce Sciscoe, Dudley J. Hughes, Verne L. Culbertson, Benton R. Vernon, Jr., Dave Gammill, Bates Oil Corporation, R. E. Williams and The State of Louisiana, and would show unto the Court the following:

I

Your Complainant is an adult resident and citizen of Adams County, Mississippi.

II

The Defendant, Henry W. Dille, an adult non-resident of the State of Mississippi, is a citizen of the State of Texas, whose place of residence and Post Office Address is 9544 Desert Ridge Drive, El Paso, Texas 79910..

III

Richard T. Dille, is an adult non-resident of the State of Mississippi, residing in the Republic of France. The place of residence and Post Office Address of the said Richard T. Dille in France is unknown to your Complainant, after diligent search and inquiry, but he does receive mail addressed to him in care of Henry W. Dille, 9544 Desert Ridge Drive, El Paso, Texas 79910.

IV

92 Pruet & Hughes Company is a Mississippi Co-Partnership composed of Chesley Pruet and Dudley J. Hughes, both of whom are adults. Chesley Pruet is a resident of Hinds County, Mississippi. Dudley J. Hughes is a non-resident of Mississippi and is a resident citizen of Arkansas whose Post Office Address is Post Office Box 31, El Dorado, Arkansas 71730.

V

The Defendant, Robert Mosbacher, an adult non-resident of the State of Mississippi, is a citizen of the State of Texas, whose Post Office Address is 21st Floor, Capital National Conoco Building, Houston, Texas 77002.

VI

✓ The Defendant, Bruce Sciscoe, an adult non-resident of the State of Mississippi, is a citizen of the State of Louisiana whose Post Office Box is 867, Shreveport, Louisiana 71102.

VII

The Defendant, Verne L. Culbertson, is an adult resident of Hinds County, Mississippi.

VIII

The Defendant, Benton R. Vernon, Jr., is an adult resident of Hinds County, Mississippi.

IX

The Defendant, Dave Gammill, is an adult resident of Hinds County, Mississippi.

X

✓ The Defendant, R. E. Williams, an adult non-resident of the State of Mississippi, is a citizen of the State of Tennessee whose Post Office Address is 402 Dupont Building, Memphis, Tennessee 38101.

XI

✓ The Bates Oil Corporation is a corporation organized under the laws of the State of Delaware whose agent for service of process is the C. T. Corporation System, 118 N. Congress Street, Jackson, Mississippi 39205.

XII

The State of Louisiana is named as a Party Defendant hereto, and process may be served upon the State of Louisiana by serving the same on the Honorable William J. Guste, Jr., Attorney General, whose Post Office Address is Wooddale Tower, Suite 717, 1885 Wooddale Boulevard, Baton Rouge, Louisiana 70806.

XIII

The Complainant, herein, is the owner in fee simple, of the following described property lying and being in Adams County, Mississippi, described as follows:

"A part of the Elysian Field Plantation, formerly the property of A. B. Dille, Sr., being a certain tract or parcel of land containing 422 acres, more or less, designated as the A. B. Dille, Jr., tract on that certain map or plat prepared by Jordan, Kaiser & Sessions, Civil Engineers, in August 1969, a copy of which map or plat was attached to that certain deed executed by Henry W. Dille and Richard T. Dille dated September 6, 1969, and recorded in Book 11-J at Page 72, et seq. of the Land Deed Records of Adams County, Mississippi and which tract may be more particularly described as:

Beginning at the Northeast corner of Section 21, Township 8 North, Range 3 West, Adams County, Mississippi, run along the boundary between Dille and Giles, North 85° 12' West, for 2914.6 feet, thence North 81° 54' West for 621.5 feet; thence North 84° 36' West for 614.0 feet; and thence North 05° 24' East for 33.0 feet to the Southeast corner of the Moses tract; thence along the boundary of said Moses tract, North 21° 28' East for 2033.9 feet and North 80° 00' West for 985 feet to the Mississippi River; thence in a generally northerly direction along the Mississippi River for 3100 feet, more or less, to the North boundary of Elysian Field; thence South 73° 34' East along the north boundary of Elysian Field (a very old fence) for 2710 feet, more or less; thence South 70° 08' East for 601.8 feet; thence South 16° 13' West for 502.1 feet; thence South 14° 12' East for 147.2 feet to the center of a bayou; thence in a general southerly and southeasterly direction along the center of said bayou for 4055 feet, more or less, to the center of Mammoth Bayou; thence in a general southerly direction along the center of Mammoth Bayou for 380 feet, more or less, to the south boundary of Elysian Field, thence North 85° 55' West along the South boundary of Elysian Field 1765.8 feet to the point of beginning. Said within described tract

94

containing 422 acres more or less, being a portion of Elysian Field situated in Township 8 North, Range 3 West, Adams County, Mississippi, together with all accretions and alluvion which have been added thereto as well as so much of the bed of the Mississippi River as lies between the bankline of the Mississippi River and the State line between the States of Mississippi and Louisiana, less and except, however, two-thirds of the oil, gas and other minerals in, on and under said lands.

XIV

(a) On the 20th day of January, 1971, Avery B. Dille, Jr., Complainant herein, executed an oil, gas and mineral lease to Dave Gammill which lease is recorded in Oil and Gas Book 147 at Page 353 of the Oil and Gas Records of Adams County, Mississippi. A copy of said lease is attached hereto marked as Exhibit "A", and made a part hereof as if copied in full.

(b) On May 5, 1971, by instrument recorded in Book 147 at Page 359 of the Oil and Gas Records aforesaid, Dave Gammill assigned an 82% interest in said lease to the following parties and in the following proportions:

Chesley Pruet	27.500%
Robert Mosbacher	18.750%
Bruce Sciscoe	9.375%
Dudley J. Hughes	9.375%
Verne L. Culbertson	5.000%
Benton R. Vernon, Jr.	2.000%

(c) On the 21st day of January, 1972, effective as of 7:00 A.M., January 1, 1972, by instrument recorded in Book 150 at Page 107 of the Oil and Gas Records of Adams County, Mississippi, Dave Gammill assigned to R. E. Williams all of his right, title and interest in and to the above leasehold estate, together with interest under other leases, reserving a production payment interest of \$225,000.00.

(d) By instrument dated the 25th day of January, 1972, effective as of 7:00 A.M., January 1, 1972, Verne L. Culbertson assigned to R. E. Williams all of his interest in and to said Oil and Gas lease reserving unto himself a production payment interest of \$62,500.00.

(e) By instrument dated the 28th day of January, 1972, effective as of 7:00 A.M., January 1, 1972, Benton R. Vernon, Jr. assigned to R. E. Williams all of his interest in and to said Oil and Gas lease reserving unto himself a production payment interest of \$25,000.00.

(f) On the 1st day of December, 1970, Pruet & Hughes Company (a co-partnership consisting of Chesley Pruet and Dudley J. Hughes) entered into an operating agreement recorded in Book 146 at Page 149 of the Oil and Gas Records of Adams County, Mississippi with Pruet & Hughes Company as Operator with Chesley Pruet, Robert Mosbacher, Bruce Siscoe, Dudley J. Hughes, Dave Gammill, Benton R. Vernon, Jr., and Verne L. Culbertson executing the same as non-operators which agreement covered the lands owned by the Complainant and originally leased to Dave Gammill, as aforesaid. Under the terms of this agreement, Pruet & Hughes were designated to be the operators of the Dille lease with the responsibility for drilling and producing oil, gas and other minerals, selling the same and accounting to the Complainant and the non-operators listed above as well as all other mineral or leasehold owners for their proportionate interest in the oil, gas and other minerals which might be produced and sold from the lands of the Complainant.

(g) By instrument bearing date of the 22nd day of January, 1974, and recorded in Book 155 at Page 486 of the Oil and Gas Records of Adams County, Mississippi, Dudley J. Hughes assigned to Bates Oil Corporation out of the Avery B. Dille, Jr. lease to Dave Gammill aforesaid, Exhibit "A" hereto, an undivided .091750 gross working interest with a net revenue pay interest of .070312 in that certain producing unit containing 40 acres more or less for the well known as Pruet & Hughes Company-Dille Estate Number 1 insofar as said lease covers and affects the producing unit described as follows:

From the most easterly corner of Section 5, Township 7 North, Range 3 West, Adams County, Mississippi, go West along the north boundary of Township 7 North, Range 3 West for 124.6 feet; thence North at right angles for 3123.1 feet to a point on the boundary between the State of Mississippi and the State of Louisiana for the point of beginning, being the southwest corner of within described tract. Thence from said point of beginning, go South 80° 00' East along the boundary between the Dille Lease and Moses Lease for 2314.46 feet; thence North 10° 00' East for 1017.34 feet; thence North 80° 00' West for 867.7 feet, more or less, to the thalweg of the Mississippi River, being the boundary between the State of Mississippi and the State of Louisiana; thence downstream along said boundary to the point of beginning. Said within described tract contains 40.0 acres.

XV

To the extent necessary, Complainant deraigns his title to the property described in Paragraph XIII as follows:

a. All of said property was conveyed to A. B. Dille by deed dated December 24, 1923, executed by Frank K. Dille and Julia W. Dille, his wife, which deed is recorded in Book 4-1, at Page 357 of the Land Deed Records of Adams County, Mississippi.

b. The said A. B. Dille, identical with Avery Benjamin Dille, died testate a resident of Adams County, Mississippi leaving his Last Will and Testament dated December 6, 1956, which will was duly probated and is recorded in Book 22 at Page 215 of Records of Wills in the office of the Chancery Clerk of Adams County, Mississippi. By the terms of said will the above described lands were devised to his wife, Katherine Turner Dille.

c. The said Katherine Turner Dille, died testate a resident of Adams County, Mississippi leaving her Last Will and Testament dated December 6, 1956, which will is recorded in Book 24 at Page 279 of the Records of Wills in the office of the Chancery Clerk of Adams County, Mississippi. By the terms of said will the above described lands were devised to her three sons, Avery Benjamin Dille, Jr., Henry Ward Dille, and Richard Turner Dille.

d. By Partition deed executed by Henry W. Dille, Avery B. Dille, Jr., and Richard T. Dille, bearing date of the 6th day of September, 1969, and recorded in Book 11-J at Page 72 of the Land Deed Records of Adams County, Mississippi the aforesaid Henry W. Dille and Richard T. Dille conveyed to Complainant, Avery B. Dille, Jr., all of their undivided two-thirds interest in and to the above described property, excepting and reserving to themselves, however, all of their undivided two-thirds interest in and to the oil, gas and other minerals in, on and under the above land.

XVI

Complainant does not deraign his title beyond that shown for the reason that all Defendants, other than The State of Louisiana, received whatever title they claim under the lands owned by Complainant as described in Paragraph XIII above, from a common source. The State of Louisiana makes no claim of title to any part of the Complainant's land lying in the State of Mississippi, and deraignment of title, therefore, is not made against the aforesaid State of Louisiana, the State of Louisiana being made the party hereto for the purpose of having Complainant's boundary line determined as being established by the Mississippi-Louisiana State line which is the middle of the navigable channel of the Mississippi River.

XVII

(a) On January 20, 1971, Henry W. Dille, individually and as Attorney-In-Fact for Richard T. Dille, executed an oil, gas and mineral lease to Dave Gammill recorded in Book 146 at Page 346 of the Oil and Gas Records of Adams County, Mississippi covering their two-thirds mineral interest. A copy of this lease is attached as Exhibit "B".

(b) Thereafter, this lease was assigned to the same parties and in the same proportions and by the same instruments

as set out in Paragraph XIV sub-paragraphs (b) through (g) inclusive, reference to which is made to avoid prolixity.

XVIII

The Defendant, Pruet & Hughes Company, drilled an oil and gas well on the property owned by the Complainant designated as Dille Number 1, productive of oil, the approximate location of said well being shown on plat attached hereto, marked Exhibit "C" and made a part hereof as fully as though herein copied in full.

XIX

The aforesaid well, Dille Number 1, has been in continual production of oil and other minerals since the respective dates of completion.

XX

The State of Louisiana by Lease Number 5544, which is not of record in Adams County, Mississippi purported to lease to Pruet & Hughes Company a portion of the bed of the Mississippi River lying west of and contiguous to the submerged lands of the Complainant. Thereafter, Pruet & Hughes Company completed a well known as "State of Louisiana Well Number 3" on said leased properties. A plat showing the approximate location of said State Lease Well Number 3 is attached hereto marked Exhibit "D", and made a part hereof as fully as though herein copied in full. The aforesaid State Well Number 3 has been producing oil and gas since its completion, the completion date being unknown to your Complainant, but being approximately January 17, 1972. The surface location of said State of Louisiana Well Number 3 was made on the lands of Complainant in Adams County, Mississippi, and said well was drilled directionally for the purpose of bottoming the well somewhere under the bed of the Mississippi River at a geographical location purportedly owned by the State of Louisiana.

Upon information and belief, Complainant alleges that said Louisiana State Lease Well Number 3 has continued to produce oil, gas or both continuously since its completion and that all royalties for production from said well have been paid, to the State of Louisiana. The Complainant is without information or knowledge as to the total amount of production, which has resulted from said well or the dollar value thereof, but this is known to Pruet & Hughes Company.

XXII

Complainant would show that the State line between the States of Mississippi and Louisiana, which is also the west boundary of Complainant's lands, is located in the submerged bed of the Mississippi River and is the sailing line of navigation, or the thalweg, of the river, and this State line shifts from time to time as the current of the Mississippi River moves eastward or westward and as the banks of the Mississippi River cave into the river or as the banks of the river are built up by the process of accretion. The plat attached hereto as Exhibit "E" shows the location of said State line, designated by the word "thalweg", as it appeared as of 1964. Since 1964, however, the thalweg or sailing line or state line has been continually shifting westward. The steady movement of this state line in a western direction in front of the riparian lands of the Complainant was and is well known to the Defendants or, by the exercise of reasonable diligence, could have been ascertained, as all of this information is available through the offices of the Mississippi River Commission and the offices of the United States Corps of Engineers at Vicksburg, Mississippi.

The State line in 1964 is described as follows:

Commence at the northeast corner of Section 21, Township 8 North, Range 3 West, Adams County, Mississippi, and run thence along the south line of the "Elysian Field" tract owned by A. B. Dille, Jr., with the following

courses and distances, to-wit: North 85 degrees 12 minutes West 2914.6 feet; thence North 81 degrees 54 minutes West 621.5 feet, thence North 84 degrees 36 minutes West 614 feet, thence North 5 degrees 24 minutes East 33 feet to the southeast corner of the Moses tract, thence along the east line of the Moses tract run North 21 degrees 28 minutes East 2033.9 feet to the northeast corner of the Moses tract; thence with the north line of the Moses tract run North 80 degrees West 935 feet; thence North 80 degrees West 1675 feet; thence North 71 degrees 32 minutes 13 seconds East 330 feet to point "B" shown on Exhibit No. 3 prepared by Austin B. Smith and attached to that certain boundary line agreement entered into by R. F. Learned & Son, Inc. on the one hand and Mrs. Mary Hodge Giles and others on the other hand, dated the 10th day of January, 1957, and recorded in Deed Book No. 8-F, at Page 15, of the Land Deed Records of Adams County, Mississippi; thence from said point "B" run with the 1964 boundary between the States of Louisiana and Mississippi North 57 degrees 21 minutes East 760.1 feet; thence North 41 degrees 05 minutes East 517.4 feet; thence South 68 degrees 12 minutes East 377 feet; thence North 22 degrees 02 minutes East 453.1 feet; thence North 12 degrees 52 minutes East 646.2 feet, thence North 9 degrees 36 minutes East 395.5 feet; thence North 7 degrees 47 minutes East 400 feet, more or less, to the intersection of the Louisiana-Mississippi State Line with the north line of the A. B. Dille, Jr. "Elysian Field" tract.

XXIII

Complainant would show that by 1972, the State line between the States of Mississippi and Louisiana, as indicated by the thalweg, had shifted to the geographical location as depicted on the map attached hereto as Exhibit "E", which line is indicated in green marked "1972". The geographical location of the 1972 State line location is as follows:

Commence at the northeast corner of Section 21, Township 8 North, Range 3 West, Adams County, Mississippi, and run thence along the south line of the "Elysian Field" tract owned by A. B. Dille, Jr., with the following courses and distances, to-wit: North 85 degrees 12 minutes West 2914.6 feet; thence North 81 degrees 54 minutes West 621.5 feet, thence North 84 degrees 36 minutes West 614 feet, thence North 5 degrees 24 minutes East 33 feet to the southeast corner of the Moses tract, thence along the east line of the Moses tract run North 21 degrees 28 minutes East 2033.9 feet to the northeast corner of the Moses tract; thence with the north line of the Moses tract run North 80 degrees West 935 feet; thence North 80 degrees West 1675 feet; thence North 71 degrees 32 minutes 13 seconds East 330 feet to point "B" shown on Exhibit No. 3 prepared by Austin B. Smith and attached to that certain boundary line agreement entered into by R. F. Learned & Son, Inc. on the one hand and Mrs. Mary Hodge Giles and others on the other hand, dated the 10th day of January, 1957, and recorded in Deed Book No. 8-F, at Page 15, of

the Land Deed Records of Adams County, Mississippi; thence from said point "B" run with the 1972 boundary between the States of Louisiana and Mississippi North 57 degrees 21 minutes East 760.1 feet; thence North 41 degrees 05 minutes East 517.4 feet; thence South 68 degrees 12 minutes East 377 feet; thence North 3 degrees East 240 feet more or less, thence North 2 degrees 400 feet more or less; thence North 1120 feet more or less to the intersection of the Louisiana-Mississippi State line with the north line of the A. B. Dille, Jr. "Elysian Field" tract.

XXIV

By 1973, said State line had shifted further west and was then in the geographical location as shown on Exhibit "E" hereto, indicated by a purple line with the legend "1973". The geographical location of the 1973 State line is as follows:

Commence at the northeast corner of Section 21, Township 8 North, Range 3 West, Adams County, Mississippi, and run thence along the south line of the "Elysian Field" tract owned by A. B. Dille, Jr., with the following courses and distances, to-wit: North 85 degrees 12 minutes West 2914.6 feet; thence North 81 degrees 54 minutes West 621.5 feet, thence North 84 degrees 36 minutes West 614 feet, thence North 5 degrees 24 minutes East 33 feet to the southeast corner of the Moses tract, thence along the east line of the Moses tract run North 21 degrees 28 minutes East 2033.9 feet to the northeast corner of the Moses tract; thence with the north line of the Moses tract run North 80 degrees West 985 feet; thence North 80 degrees West 1675 feet; thence North 71 degrees 32 minutes 13 seconds East 330 feet to point "B" shown on Exhibit No. 3 prepared by Austin B. Smith and attached to that certain boundary line agreement entered into by R. F. Learned & Son, Inc. on the one hand and Mrs. Mary Hodge Giles and others on the other hand, dated the 10th day of January, 1957, and recorded in Deed Book No. 8-F, at Page 15, of the Land Deed Records of Adams County, Mississippi; thence from said point "B" run with the 1973 boundary between the States of Louisiana and Mississippi North 57 degrees 21 minutes East 760.1 feet; thence North 41 degrees 05 minutes East 517.4 feet; thence South 68 degrees 12 minutes East 230 feet more or less; thence North 3 degrees 45 minutes East 400 feet more or less; thence North 1 degree 15 minutes West 1000 feet more or less, to the intersection of the Louisiana-Mississippi State line with the north line of the A. B. Dille, Jr. "Elysian Field" tract.

XXV

By 1975, said State line had shifted still further west and occupied the geographical location depicted on Exhibit "E" hereto depicted by a black line bearing the legend of

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"1975 thalweg" and the geographical location of the State line as of 1975 is as follows:

Commence at the northeast corner of Section 21, Township 8 North, Range 3 West, Adams County, Mississippi, and run thence along the south line of the "Elysian Field" tract owned by A. B. Dille, Jr., with the following courses and distances, to-wit: North 85 degrees 12 minutes West 2914.6 feet; thence North 51 degrees 54 minutes West 621.5 feet, thence North 54 degrees 36 minutes West 614 feet, thence North 5 degrees 24 minutes East 33 feet to the southeast corner of the Moses tract, thence along the east line of the Moses tract run North 21 degrees 28 minutes East 2033.9 feet to the northeast corner of the Moses tract; thence with the north line of the Moses tract run North 80 degrees West 985 feet; thence North 80 degrees West 1675 feet; thence North 71 degrees 32 minutes 13 seconds East 130 feet to point "B" shown on Exhibit No. 3 prepared by Austin B. Smith and attached to that certain boundary line agreement entered into by R. F. Learned and Son, Inc. on the one hand and Mrs. Mary Hodge Giles and others on the other hand, dated the 10th day of January, 1957, and recorded in Deed Book No. 8-F, at Page 15, of the Land Deed Records of Adams County, Mississippi; thence from said point "B" run with the 1975 boundary between the States of Louisiana and Mississippi North 57 degrees 21 minutes East 760.1 feet; thence North 41 degrees 05 minutes East 517.4 feet; thence North 3 degrees West 1075 feet more or less, to the intersection of the Louisiana-Mississippi State Line with the north line of the A. B. Dille, Jr., "Elysian Field" tract.

XXVI

By 1976, said thalweg and State line had again shifted further west in front of the Complainant's lands and occupied the geographical position as shown on Exhibit "E", attached hereto depicted by a red line bearing the legend "July 1976 thalweg". The geographical location of the July 1976 State line is as follows:

Commence at the northeast corner of Section 21, Township 8 North, Range 3 West, Adams County, Mississippi, and run thence along the south line of the "Elysian Field" tract owned by A. B. Dille, Jr., with the following courses and distances, to-wit: North 85 degrees 12 minutes West 2914.6 feet; thence North 81 degrees 54 minutes West 621.5 feet, thence North 84 degrees 36 minutes West 614 feet, thence North 5 degrees 24 minutes East 33 feet to the southeast corner of the Moses tract, thence along the east line of the Moses tract run North 21 degrees 28 minutes East 2033.9 feet to the northeast corner of the Moses tract; thence with the north line of the Moses tract run North 80 degrees West

935 feet; thence North 30 degrees West 1675 feet; thence North 71 degrees 12 minutes 13 seconds West 150 feet more or less, thence North 1 degree 15 minutes East 3270 feet more or less, thence North 7 degrees 47 minutes East 400 feet; more or less, to the intersection of the Louisiana-Mississippi State Line with the north line of the A. B. Dille, Jr. "Elysian Field" tract.

XXVII

Under the laws and court decisions of the State of Mississippi, the owner of lands which are riparian to the Mississippi River also owns the bed of the river extending from the Mississippi bank line out to the adjoining State line, which in this instance is the State line of Mississippi-Louisiana. Therefore, as the State line migrated westward, Complainant's ownership of the bed of the Mississippi River and its underlying minerals followed the State line. This change of ownership resulting from the migration of the State line, was called to the attention of Defendant, Pruet & Hughes Company and was also called to the attention of the State of Louisiana by your Complainant with demand being made by the Complainant that adjustments in royalty payments be made so that Complainant would be paid his proportionate part of the royalty attributable to his ownership of the bed of the Mississippi River as the same was enlarged by the migration westward of the thalweg or State line between the States of Mississippi and Louisiana. In spite of said demands the Defendants, State of Louisiana and Pruet & Hughes Company have refused to honor the same and over the protest of Complainant Pruet & Hughes Company has continued to pay to the State of Louisiana all gas and oil royalties attributable to production through the drill hole from the State of Louisiana Lease 5544, Well Number 3, although said well is draining oil from the Complainant's lands, and the State of Louisiana has also refused to pay the same or any part thereof to Complainant although requested so to do.

Complainant would show that Pruet & Hughes Company and the State of Louisiana entered into an agreement through the Oil and Gas Board of the State of Louisiana establishing a forty acre producing unit surrounding the State of Louisiana Well Number 3. A copy of the Orders establishing this unit is attached hereto marked Exhibit "F". The Complainant was not a party to this proceeding and has never acquiesced therein. This unit originally embraced only portions of the bed of the Mississippi River lying within the State of Louisiana but as the State line, which is the same as the sailing line of navigation, or the thalweg of the Mississippi River, moved westward, title to portions of the bed of the river, together with title to one-third of the minerals underlying the same became vested in Complainant. The Louisiana State Well Number 3, then commenced draining oil and gas from Complainant's lands, which drainage has continued to this day. As shown by Exhibit "E" the Louisiana State Well Number 3 is now bottomed entirely under the lands of Complainant.

XXIX

Complainant would show that by reason of such drainage a third of the royalties from State of Louisiana Well Number 3 attributable to Complainant's submerged lands should have been paid to him but the amount of said royalties, and the volume of the oil and gas produced through said Louisiana State Well Number 3 is unknown to your Complainant but it is known to the Defendants, State of Louisiana and Pruet & Hughes Company. Complainant would show unto the Court that he is entitled to an accounting from the said Pruet & Hughes Company and The State of Louisiana of all oil and gas drained from his submerged lands which were produced through and drained by the aforesaid State of Louisiana Well Number 3 and he is entitled to be paid the value of one-third of one-fourth thereof, together with interest.

Complainant would further show that it was and is the duty of the Defendant, Pruet & Hughes Company to pay to the rightful royalty owners such royalty owners' proportionate part of the oil and gas produced and the portion of such royalty payable to Complainant can be ascertained only by an annual determination of where the State line is located as between the State of Mississippi and the State of Louisiana. Complainant would show that the United States Engineers, Vicksburg District, make hydrographic studies of the bed of the Mississippi River annually, and these studies show and will show the location of the Mississippi-Louisiana State line as of the time of said hydrographic survey. Complainant is entitled to a mandatory injunction directing the Defendant, Pruet & Hughes Company in the future to make an annual determination of the location of the shifting State line between the States of Mississippi and Louisiana, based upon such studies, and to thereafter adjust the payment of royalties annually in accordance with the new location of the State line.

XXXI

Complainant would show that all of the Defendants, other than the State of Louisiana and Pruet & Hughes Company also have an interest in the minerals and royalties underlying the bed of the Mississippi River lying between the shifting State line and the bank of the Mississippi shore and upon information and belief Complainant charges that the Defendant, Pruet & Hughes Company has not been paying these Defendants their proportionate part of the royalty and oil payments as set out in Paragraph XIV above. For the purpose of finally adjudicating all disputes as to the ownership of the royalties, oil payments and other payments that are due under the terms of the leases attached as Exhibits "A" and "B" hereto, your Complainant has named all of said parties having such an interest as Defendants to this proceeding and ask that they be realigned as Party Complainants.

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Complainant charges that the refusal of the Defendant, Pruet & Hughes Company to pay to Complainant his proportionate part of the royalties to which he is entitled as shown above, is a wilful and wanton disregard of the rights of Complainant and Complainant is entitled to punitive damages in the sum of \$100,000.00 and attorneys fees.

WHEREFORE PREMISES CONSIDERED, Complainant respectfully prays:

1. That process be issued to the Defendants, herein, requiring them to answer plead or demur to this complaint at the _____ term of this Honorable Court, answer under oath being waived.

2. That upon a final hearing Complainant be adjudicated to be the owner of one-third of the oil, gas and other minerals in, on and under that portion of the bed of the Mississippi River lying between his Mississippi bankline (left descending bank of the Mississippi River) and the State line between the States of Mississippi and Louisiana and that the State line locations be adjudicated to be those locations as described in Exhibit "E" to this complaint at the respective times shown.

3. That the Defendant, Pruet & Hughes Company, be required to make an accounting to this Court of all oil, gas and other minerals produced from the well known as State of Louisiana, Well Number 3, as well as any other wells which may be draining the lands of Complainant with the sales price received by it from the sale of said minerals, and that Complainant be paid one-third portion of the royalty from such production attributable to his ownership of the bed of the Mississippi River as the State line migrated westward.

4. That all Defendants other than Pruet & Hughes Company and the State of Louisiana be re-aligned as parties Complainant.

5. That upon final hearing a Decree be entered herein adjudicating the amount of indebtedness owed by Pruet & Hughes Company to this Complainant and that a judgment for said amount with legal interest be entered in favor of your Complainant.

6. That a mandatory injunction be entered requiring the Defendant, Pruet & Hughes Company, in the future, to make annual redeterminations of the State line between the States of Mississippi and Louisiana and to adjust the royalties payable to Complainant accordingly.

7. Complainant demands judgment against the Defendant, Pruet & Hughes Company in the sum of \$100,000.00 together with reasonable attorneys fees and expenses, all as punitive damages.

8. If Complainant has asked for inadequate or insufficient relief, he prays for such other further and general relief to which he may be entitled in the premises, and as in duty bound he will ever pray.

WARD, MARTIN, TERRY AND WAY
POST OFFICE BOX 789
VICKSBURG, MISSISSIPPI 39180

BY: _____
ATTORNEYS FOR COMPLAINANT

COMPLAINANT

STATE OF MISSISSIPPI

COUNTY OF _____

PERSONALLY appeared before me, the undersigned Notary Public, in and for the jurisdiction above, Avery B. Dille, Jr., who being first duly sworn, deposes and states upon oath that he has read the foregoing Bill of Complaint and that the matters and things therein set out are true and correct, except as to those matters stated upon information and belief, and as to those he verily believes the same to be true.

AVERY B. DILLE, JR.

SWORN to and subscribed before me this the _____ day
of _____, 1979.

NOTARY PUBLIC

My Commission Expires:

OIL, GAS AND MINERAL LEASE

THIS AGREEMENT made this 20th day of January, 1915, between

AVERY P. DILL, JR.

and
DAVE GAMMILL, P. O. Box 71, Jackson, Mississippi, 39205
Ten and other good and valuable considerations
Adams

120 acres as shown and signed for identification on the attached plat marked "A" to this Lease. Said lands being a portion of the Elyian Fields Plantation, and being located in Township 8 North, Range 3 West, Adams County, Mississippi.

* Paragraph No. 3 of this lease is hereby amended to read one-quarter (1/4) royalty instead of the one-eighth (1/8) royalty printed therein.

NOTWITHSTANDING the provisions of Paragraph 2, of this lease, if upon the expiration of the primary term hereof, oil, gas or other minerals are being produced from said land, this lease shall continue in force after the primary term only so long as the Lessee shall conduct continuous drilling operations, as the term is hereinafter defined, for oil, or gas, on said lands or acreage pooled therewith. The term "continuous drilling operations" as herein used means the commencement of actual drilling of a well within six months after the expiration of the primary term hereof, and thereafter drilling of wells with not more than six months elapsing between the completion of a well and the commencement of actual drilling of the next succeeding well; each well drilled and completed on said land or acreage pooled therewith by Lessee, whether or not productive, shall thus operate to extend the lease in force in its entirety for a period of six months next following the date of its completion; and provided, further, that the six months allowed between the completion of one well and the commencement of actual drilling of another well shall be accumulative as to two consecutive wells, that is, if a well is commenced sooner than six months after the completion of the preceding well, the time so saved shall be added to the six months allowed for commencement of actual drilling of a subsequent well, but in no event to exceed a total of twelve months. If and when Lessee shall fail or cease to conduct continuous drilling operations upon said lands, as above defined, this lease shall thereupon terminate in its entirety, save and except each producing unit, if any, on which a well has been completed in accordance with the provisions of this lease and from which well oil or gas is then being produced in paying quantities.

With reference to the Lessee's right of pooling and pooling rights hereunder, the Lessee does covenant and agree that as to any and all acreage pooled, and from time to time, the Lessee shall not have the right of pooling unless at least fifty (50) percent of the lands comprising a drilling unit shall consist of lands described under this lease are pooled in said unit or units, with the royalty due Lessor hereunder. Notwithstanding anything to the contrary contained in the printed form of this lease, it is further distinctly agreed and understood that with reference to pooling rights, that the pooling of any portion of the Lessor's land, and in the event of production with the land so pooled, the same shall not have the effect of keeping this lease in force and effect as to the remainder of Lessor's land hereby leased, but rather, shall keep this lease in force and effect only as to the land of Lessor actually pooled with other land on which there is a producing oil or gas well. It is also understood and agreed that the fifty (50) percent pooling provision described hereinabove may be reduced as to each drilling unit only upon written consent of the Lessor.

With reference to Paragraph 3 of the printed form of this lease, while there is a gas well or wells on this lease, or on acreage pooled therewith, but gas is not being sold, the Lessee shall pay to Lessor the sum of Five Hundred Dollars (\$500.00) per well per year for each of such shut-in gas well

If there be any producing units so excepted from termination of this lease upon failure or cessation on the part of Lessee to conduct continuous drilling operations upon this land, as aforesaid, then this lease shall thereafter continue in force only insofar as it covers each prospective producing unit as long as, and not after, oil or gas is being produced in paying quantities from a well located upon such unit. Provided, however, that if production of oil or gas in paying quantities upon any aforesaid excepted producing unit or units,

should thereafter cease from any cause, and if Lessee commences additional drilling or reworking operations on such producing unit within sixty (60) days after such cessation of production, this lease shall remain in force, insofar as it covers such producing unit, as long as the same are prosecuted with reasonable diligence and with no cessation in any event more than sixty (60) days, and if it results in the production of oil or gas in paying quantities on a producing unit, then this lease insofar as it covers the particular unit in question, shall remain in force so long thereafter as such production of the kind above specified shall continue in paying quantities. If any of the hereinabove described terms and provisions of this lease are not complied with and upon written notice, Lessee or his assigns shall within sixty (60) days after receipt of said written notice re-lease to Lessor all of the lands included in this lease except said lands being in a producing unit as hereinabove described.

It is also agreed by and between Lessor and Lessee that for the use of the surface rights owned by Lessor, Lessee covenants and agrees to pay Lessor the sum of \$500.00 for each oil or gas well drilled upon the premises herein leased. Said payment to be made, in cash, five days before the commencement of drilling of any well upon the leased premises.

It is also agreed by and between the Lessor and Lessee that for the use of the surface of Lessor's land that Lessee agrees to pay Lessor the sum of \$150.00 per month to place tank batteries and treater sites upon the surface of Lessor's land and for the use of roads and roadways upon the surface of the Lessor's land, said payment to be made, in advance, on a monthly basis prior to the installation of any tank batteries or treaters upon the surface of the properties owned by Lessor; and Lessee further agrees to gravel and keep in proper repair all roads used by Lessee.

Lessee herein agrees that it shall and will, upon the completion of the drilling of any well hereunder, reasonably restore said premises to a satisfactory condition and will fence any and all pits for the protection of livestock; and Lessee further agrees to install a metal cattle gap, customarily used in the area, at any boundary fence prior to moving a drilling rig upon the premises; and upon request by Lessor to Lessee to place suitable gates at any boundary fence and to keep the same locked at all times when not being used by Lessee.

In drilling any well or wells on the leased premises, the Lessee by its acceptance of the fruits of this lease covenants and agrees that he will use existing roads and roadways wherever and whenever feasible.

Lessee covenants that Lessee will conduct all drilling and producing operations in good and workmanlike manner. That Lessee will pay reasonable damages for crops, pastures and timber destroyed in such drilling or producing operations. That Lessee will control the disposal of salt water and pay reasonable damages for losses resulting to Lessor from the escape of oil or oily waste or salt water. That it will back-fill all pits and excavations when not otherwise used for drilling or producing operations hereunder and will otherwise restore the lands as near as practicable to the conditions in which the said lands were prior to such operations, reasonable uses for the purposes and during the time of such operations excepted. These covenants are in addition to all other covenants and conditions expressed or implied contained in the within oil, gas and mineral lease.

This lease covers all oil and gas rights in, on and under the lands hereinabove described from the surface of the ground down to the base of the Wilcox formation; all oil and gas below said depth; said lands, and all of the rights appertaining thereto, expressly excepted from this lease and reserved to Lessor, his heirs and assigns. The parties hereto, their respective heirs, successors and assigns, shall have equal and concurrent rights of ingress and egress and use of the surface (upon the terms and conditions set forth in this lease) for the purpose of exploring, drilling for, mining, producing, storing, and marketing oil and gas from their respective depths, above specified.

The warranty of paragraph (10) hereof is limited to such right title and interest as is held by Lessor, as shown by the Land Records in the Office of the Chancery Clerk of Adams County, Mississippi.

Lessee agrees to promptly pay the surface owner of the actual value of all timber felled by Lessee in the conduct of his operations hereunder.

In connection with any tank battery or treater site or sites to be placed upon the surface of Lessor's premises, it is agreed by and between the parties that all tank battery and treater sites shall be placed in an area where existing tank battery sites are now located if said production equipment can be located on the existing site or sites. If, according to the Lessee, or his Assigns, said production equipment cannot economically or reasonably be placed on any existing tank battery sites, then Lessee or his Assigns and Lessor shall mutually agree upon a more suitable tank battery site. Lessor shall not withhold his consent as to the location of any tank battery site or sites other than the existing tank battery site or sites, as long as Lessee or his Assigns have made a reasonable attempt to place said tank battery site or sites at a mutually agreeable location with the Lessor.

The Lessor shall have the right to use, free of cost, gas from any well producing gas, for heating Lessor's home and other general domestic use in any building now situated on said property, so long as Lessee or his Assigns do not actually need said gas for producing said well or wells. If said Lessor is using the gas for his hereinabove described needs and Lessee or his Assigns deems it necessary to use said gas in producing the well or wells, then Lessee or his assigns shall give Lessor written notice of such a need and Lessor will immediately dispense with the use of any such gas from the well or wells being produced. Lessor is to make connections with the well or wells and run any necessary pipe or pipes to Lessor's existing gas system, the use of said gas to be at Lessor's sole risk and expense.

SIGNED FOR IDENTIFICATION

AVERY B. DILLE, JR.

ADAMS COUNTY

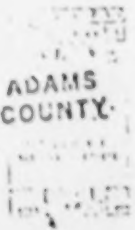
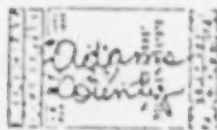
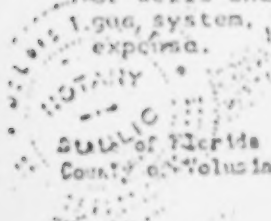


EXHIBIT "A"

O.J. Clermont Plantation Lease
 Dated January 20, 1971
 From Avery D. Baker, Jr. to favor
 of Dave G. Gorman

147-353

N

RIVER

MISSISSIPPI
 Light Co.

David J. Baker, Jr.

1865

State of Louisiana

MISSISSIPPI

Dille

ROSE TRACT

Northwest Corner Section 21, T6N-R3W

Scale: 1" = 1000'

"CLERMONT, PLANTATION"
 "Giles"

STATE OF MISSISSIPPI,
 ADAMS COUNTY

I, ROBERT E. BURNS, Clerk of the Chancery Court of said County, hereby certify that the foregoing instrument of writing
 executed in my office has been on the 7 day of JULY, 1971, at 4:00 o'clock
P. M., and duly recorded in BOOK & GAS Book No. 147 Page 353
 WITNESS my hand and Seal of said Court, this 7 day of JULY, 1971.
 ROBERT E. BURNS, Clerk
 [Signature]
 D. C.

360

OIL, GAS AND MINERAL LEASE

20th day of JANUARY 1971

IS AGREEMENT made this

HENRY W. DILLE, Individually, and, as Attorney-in-Fact for
RICHARD T. DILLE

EL PASO, TEXAS

DAVE GAMMILL, P. O. Box 92, Jackson, Mississippi

Witnesseth:

For and in consideration of Ten and other good and valuable considerations

Do hereby grant, sell, lease and convey unto Lessee for the purpose of investigating, exploring, prospecting, drilling and mining for and producing oil, gas and all other minerals, lying and being located in Township 8 North, Range 3 West, Adams County, Mississippi, the following described land to

120 Acres as shown and signed for identification on the attached plat marked Exhibit "A" to this Lease. Said lands being a portion of the Elysian Fields Plantation and being located in Township 8 North, Range 3 West, Adams County, Mississippi.

Paragraph No. 3 of this is hereby amended to read one-quarter (1/4) royalty instead of the one-eighth (1/8) royalty printed therein.

NOTWITHSTANDING the provisions of Paragraph 2, of this lease, if upon the expiration of the primary term hereof, oil, gas or other minerals are being produced from said land, this lease shall continue in force after the primary term only so long as the Lessee shall conduct continuous drilling operations, as the term is hereinafter defined, for oil, or gas, on said lands or acreage pooled therewith. The term "continuous drilling operations" as herein used means the commencement of actual drilling of a well within six months after the expiration of the primary term hereof, and thereafter drilling of wells with not more than six months elapsing between the completion of a well and the commencement of actual drilling of the next succeeding well; each well drilled and completed on said land or acreage pooled therewith by Lessee, whether or not productive, shall thus operate to extend the lease in force in its entirety for a period of six months next following the date of its completion; and provided, further, that the six months allowed between the completion of one well and the commencement of actual drilling of another well shall be accumulative as to two consecutive wells, that is, if a well is commenced sooner than six months after the completion of the preceding well, the time so saved shall be added to the six months allowed for commencement of actual drilling of a subsequent well, but in no event to exceed a total of twelve months. If and when Lessee shall fail or cease to conduct continuous drilling operations upon said lands, as above defined, this lease shall thereupon terminate in its entirety, save and except each producing unit, if any, on which a well has been completed in accordance with the provisions of this lease and from which well oil or gas is then being produced in paying quantities.

110-107-342
 With reference to the Lessee's right of pooling and pooling rights hereunder, the Lessee does covenant and agree that as to any and all acreage pooled, and from time to time, the Lessee shall not have the right of pooling unless at least fifty (50) percent of the lands comprising a drilling unit shall consist of lands described under this lease are pooled in said unit or units, with the royalty due Lessor hereunder. Notwithstanding anything to the contrary contained in the printed form of this lease, it is further distinctly agreed and understood that with reference to pooling rights, that the pooling of any portion of the Lessor's land, and in the event of production with the land so pooled, the same shall not have the effect of keeping this lease in force and effect as to the remainder of Lessor's land hereby leased, but rather, shall keep this lease in force and effect only as to the land of Lessor actually pooled with other land on which there is a producing oil or gas well. It is also understood and agreed that the fifty (50) percent pooling provision described hereinabove may be reduced as to each drilling unit only upon written consent of the Lessor.

With reference to Paragraph 3 of the printed form of this lease, while there is a gas well or wells on this lease, or on acreage pooled therewith, but gas is not being sold, the Lessee shall pay to Lessor the sum of Five Hundred Dollars (\$500.00) per well per year for each of such shut-in gas well or wells.

If there be any producing units so excepted from termination of this lease upon failure or cessation on the part of Lessee to conduct continuous drilling operations upon this land, as aforesaid, then this lease shall thereafter continue in force only insofar as it covers each prospective producing unit as long as, and not after, oil or gas is being produced in paying quantities from a well located upon such unit. Provided, however, that if production of oil or gas in paying quantities upon any aforesaid excepted producing unit or units,

should thereafter cease from any cause, and if Lessee commences additional drilling or reworking operations on such producing unit within sixty (60) days after such cessation of production, this lease shall remain in force, insofar as it covers such producing unit, as long as the same are prosecuted with reasonable diligence and with no cessation in any event more than sixty (60) days, and if it results in the production of oil or gas in paying quantities on a producing unit, then this lease insofar as it covers the particular unit in question, shall remain in force so long thereafter as such production of the kind above specified shall continue in paying quantities. If any of the hereinabove described terms and provisions of this lease are not complied with and upon written notice, Lessee or his assigns shall within sixty (60) days after receipt of said written notice release to Lessor all of the lands included in this lease except said lands being in a producing unit as hereinabove described.



SIGN FOR IDENTIFICATION

Henry W. Dille
 HENRY W. DILLE

Henry W. Dille
 HENRY W. DILLE as Attorney-in-Fact for RICHARD T. DILLE

and income of land or other interest by lease, assignment, mortgage, or otherwise, and the same shall be subject to the provisions of this lease.

For the purpose of calculating the rental payments hereinafter provided for, said land is estimated to produce **ONE CROP PER YEAR** of the following crops:

1. Subject to the other provisions herein contained, this lease shall be for a term of **ONE YEAR** from the date (called "primary term") and so long thereafter as oil, gas or other minerals is produced from said land or lands with which said land is pooled hereunder.

2. The payment to be paid by Lessee shall be an amount **PER MONTH** of that produced and saved from said land, the same to be delivered at the well or in the hands of Lessee into the place to which the well may be produced. Lessee may from time to time purchase and resell all in its possession, custody or control, and the proceeds of the sale of the same shall be paid to the owner of the land, and the same shall be subject to the provisions of this lease.

3. If at any time during the term of this lease, the production of oil, gas or other minerals from said land or lands with which said land is pooled hereunder shall be such that the proceeds of the sale of the same shall be sufficient to pay the rental payments hereunder, then the rental payments hereunder shall be paid by Lessee to the owner of the land, and the same shall be subject to the provisions of this lease.

4. Lessee, at its option, is hereby given the right and power to pool or combine the acreage covered by this lease or any portion thereof with other land, here or hereafter, in the same vicinity thereof, when in Lessee's judgment it is necessary or advisable to do so in order to better develop the land and to obtain the maximum production therefrom, and the same shall be subject to the provisions of this lease.

5. Lessee shall execute in writing an instrument identifying and describing the pooled acreage. The entire acreage so pooled into a tract or unit shall be treated for all purposes except the payment of production as production from the pooled unit, as if it were included in the lease. If production is found in the pooled acreage, it shall be treated as if production is had from this lease, whether the well or wells be located on the pooled acreage or the lease or in the pooled acreage. In the event of the pooling of the leased land with other land, Lessee shall execute an assignment from a well or wells producing oil or gas in the pooled acreage to the owner of the land or lands so pooled in the pooled acreage as provided in the particular case involved.

6. Lessee shall execute in writing an instrument identifying and describing the pooled acreage. The entire acreage so pooled into a tract or unit shall be treated for all purposes except the payment of production as production from the pooled unit, as if it were included in the lease. If production is found in the pooled acreage, it shall be treated as if production is had from this lease, whether the well or wells be located on the pooled acreage or the lease or in the pooled acreage. In the event of the pooling of the leased land with other land, Lessee shall execute an assignment from a well or wells producing oil or gas in the pooled acreage to the owner of the land or lands so pooled in the pooled acreage as provided in the particular case involved.

7. Lessee shall execute in writing an instrument identifying and describing the pooled acreage. The entire acreage so pooled into a tract or unit shall be treated for all purposes except the payment of production as production from the pooled unit, as if it were included in the lease. If production is found in the pooled acreage, it shall be treated as if production is had from this lease, whether the well or wells be located on the pooled acreage or the lease or in the pooled acreage. In the event of the pooling of the leased land with other land, Lessee shall execute an assignment from a well or wells producing oil or gas in the pooled acreage to the owner of the land or lands so pooled in the pooled acreage as provided in the particular case involved.

8. Lessee shall execute in writing an instrument identifying and describing the pooled acreage. The entire acreage so pooled into a tract or unit shall be treated for all purposes except the payment of production as production from the pooled unit, as if it were included in the lease. If production is found in the pooled acreage, it shall be treated as if production is had from this lease, whether the well or wells be located on the pooled acreage or the lease or in the pooled acreage. In the event of the pooling of the leased land with other land, Lessee shall execute an assignment from a well or wells producing oil or gas in the pooled acreage to the owner of the land or lands so pooled in the pooled acreage as provided in the particular case involved.

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10. Lessee shall execute in writing an instrument identifying and describing the pooled acreage. The entire acreage so pooled into a tract or unit shall be treated for all purposes except the payment of production as production from the pooled unit, as if it were included in the lease. If production is found in the pooled acreage, it shall be treated as if production is had from this lease, whether the well or wells be located on the pooled acreage or the lease or in the pooled acreage. In the event of the pooling of the leased land with other land, Lessee shall execute an assignment from a well or wells producing oil or gas in the pooled acreage to the owner of the land or lands so pooled in the pooled acreage as provided in the particular case involved.

11. Lessee shall execute in writing an instrument identifying and describing the pooled acreage. The entire acreage so pooled into a tract or unit shall be treated for all purposes except the payment of production as production from the pooled unit, as if it were included in the lease. If production is found in the pooled acreage, it shall be treated as if production is had from this lease, whether the well or wells be located on the pooled acreage or the lease or in the pooled acreage. In the event of the pooling of the leased land with other land, Lessee shall execute an assignment from a well or wells producing oil or gas in the pooled acreage to the owner of the land or lands so pooled in the pooled acreage as provided in the particular case involved.

12. Lessee shall execute in writing an instrument identifying and describing the pooled acreage. The entire acreage so pooled into a tract or unit shall be treated for all purposes except the payment of production as production from the pooled unit, as if it were included in the lease. If production is found in the pooled acreage, it shall be treated as if production is had from this lease, whether the well or wells be located on the pooled acreage or the lease or in the pooled acreage. In the event of the pooling of the leased land with other land, Lessee shall execute an assignment from a well or wells producing oil or gas in the pooled acreage to the owner of the land or lands so pooled in the pooled acreage as provided in the particular case involved.

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14. Lessee shall execute in writing an instrument identifying and describing the pooled acreage. The entire acreage so pooled into a tract or unit shall be treated for all purposes except the payment of production as production from the pooled unit, as if it were included in the lease. If production is found in the pooled acreage, it shall be treated as if production is had from this lease, whether the well or wells be located on the pooled acreage or the lease or in the pooled acreage. In the event of the pooling of the leased land with other land, Lessee shall execute an assignment from a well or wells producing oil or gas in the pooled acreage to the owner of the land or lands so pooled in the pooled acreage as provided in the particular case involved.

15. Lessee shall execute in writing an instrument identifying and describing the pooled acreage. The entire acreage so pooled into a tract or unit shall be treated for all purposes except the payment of production as production from the pooled unit, as if it were included in the lease. If production is found in the pooled acreage, it shall be treated as if production is had from this lease, whether the well or wells be located on the pooled acreage or the lease or in the pooled acreage. In the event of the pooling of the leased land with other land, Lessee shall execute an assignment from a well or wells producing oil or gas in the pooled acreage to the owner of the land or lands so pooled in the pooled acreage as provided in the particular case involved.

EXHIBIT "A"

to

Oil, gas and mineral lease
dated January 23, 1971
from Henry W. Dille, individually
and as Attorney-in-Fact for
Richard T. Dille in favor of
Dale Gammill

BOOK 146 PAGE 345

RIVER

611



SIGN FOR IDENTIFICATION

Henry W. Dille
HENRY W. DILLE

Henry W. Dille
HENRY W. DILLE as Attorney-
in-Fact for Richard T. Dille

Scale: 1" = 1000'

"CLERMONT PLANTATION"
"Giles"

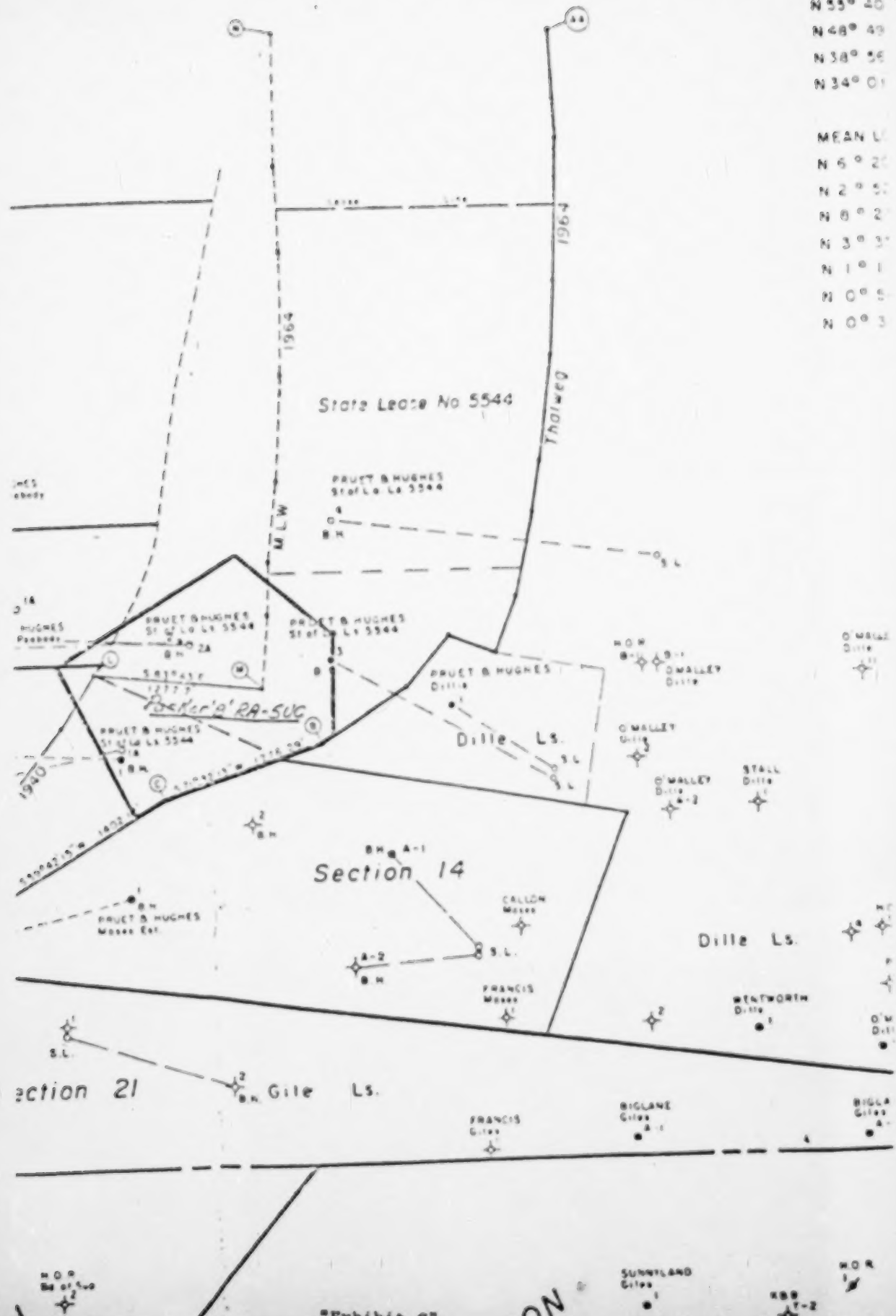
STATE OF MISSISSIPPI
ADAMS COUNTY

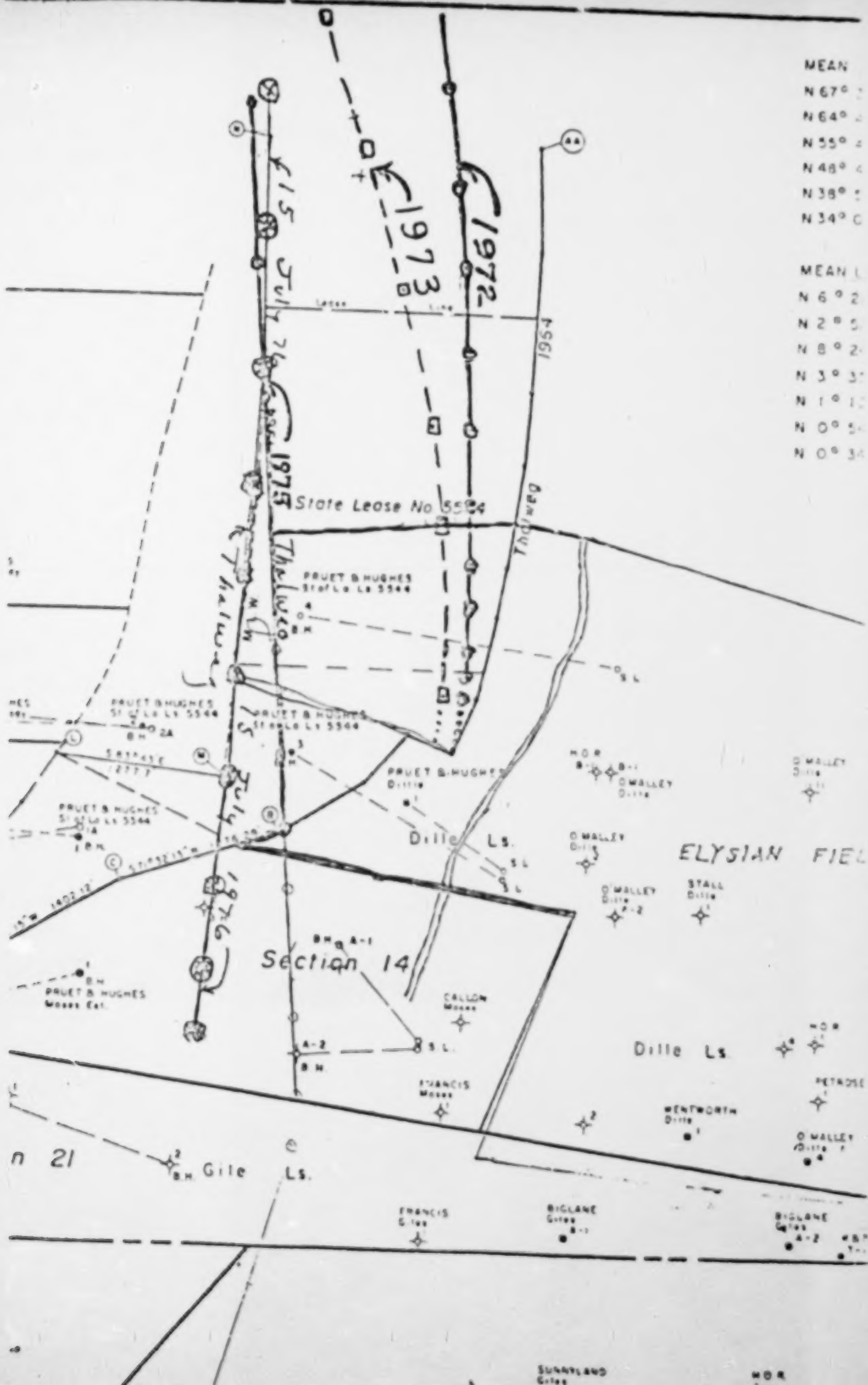
I, ROBERT L. OLIVER, Clerk of the Chancery Court of said County, hereby certify that the foregoing instrument of writing
was filed in my office this 25 day of February 1971 at 10:30 a.m.
Book No. 146 Page 341

MEAN LG
 N 67° 31'
 N 64° 48'
 N 55° 40'
 N 48° 49'
 N 38° 56'
 N 34° 01'

MEAN LG
 N 5° 20'
 N 2° 50'
 N 0° 20'
 N 3° 30'
 N 1° 10'
 N 0° 50'
 N 0° 30'

120





STATE OF LOUISIANA
DEPARTMENT OF CONSERVATION
BATON ROUGE, LOUISIANA

April 21, 1975

ORDER NO. 897-B

Order concerning rules and regulations and the creation of three drilling and production units for the Parker B Sand, Reservoir A, in the GILES BEND FIELD, Concordia Parish, Louisiana.

* * * * *

Pursuant to power delegated under the laws of the State of Louisiana, and particularly Title 30 of Louisiana Revised Statutes of 1950, and after a public hearing held in Shreveport, Louisiana, on April 10, 1975, under Docket No. 75-87, upon the application of Pruet & Hughes Company, following legal publication of notice and notice in accordance with rules prescribed by the Commissioner of Conservation, the following order is issued and promulgated by the Commissioner of Conservation as being reasonably necessary to conserve the natural resources of the State, to prevent waste as defined by law, to avoid the drilling of unnecessary wells and otherwise to carry out the provisions of the laws of this State.

DEFINITION

The Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana, is hereby defined as being that oil and gas bearing sand encountered between the depths of 5,622 feet and 5,662 feet (electrical log measurements) in the Pruet & Hughes (originally Dave Gammill) No. 1 Learned-Peabody Well, located 12,345 feet South and 1,700 feet East of the common corner of Sections 15, 16 and 53, Township 8 North, Range 10 East, on alluvion to said Township 8 North, Range 10 East, Concordia Parish, Louisiana.

FINDINGS

The Commissioner of Conservation finds as follows:

1. That the establishment of rules and regulations and the creation of three drilling and production units for the Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana, are necessary to insure orderly development, to prevent waste, and to avoid the drilling of unnecessary wells.
2. That the available geological and engineering data indicate that the units, all as more particularly shown on the plat labeled "Pruet & Hughes Company Exhibit No. 4 for Docket No. 75-87," are reasonable and should be adopted; that each unit can be efficiently and economically drained by one well located thereon and that creation of such units should reasonably assure to each separate tract its just and equitable share of the contents of the reservoir.
3. That the separately owned tracts, mineral leases and other property interests within the unit created herein should be force pooled and integrated with each separate tract sharing in unit production on a surface acreage basis of participation.

4. That any wells drilled to the Parker B Sand, Reservoir A, outside of the units herein established should be located in accordance with Statewide Order No. 29-E.
5. That the wells as shown on the unit plat should be designated as the unit wells for the respective units in which they are located.
6. That Pruet & Hughes Company should be designated as operator of the units created herein.

O R D E R

NOW, THEREFORE, IT IS ORDERED THAT:

1. The drilling and production units shown on the plat labeled "Pruet & Hughes Company Exhibit No. 4 for Docket No. 75-87," attached hereto and made a part hereof, be and they are hereby approved and adopted as drilling and production units for the exploration for and production of oil and gas from the Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana.

The units have not been surveyed, and when a survey plat of said units showing the exterior limits thereof, the total acreage therein, and the acreage in each separately owned tract, has been submitted to and accepted by the Commissioner of Conservation or any member of his staff, insofar as it shows the exterior limits of the units, said plat shall be substituted for the above exhibit and made a part of this order by reference. In the event of conflicting claims of ownership of acreage in any unit, such acreage may be so identified on the survey plat. Such identification of acreage subject to conflicting claims shall not be construed as an acknowledgment of the validity of any such claims, and shall not affect any other acreage in separately owned tracts in the units.

The survey plat for each unit shall be prepared in accordance with the requirements for unit plats and survey plats adopted by the Commissioner of Conservation. It is recognized that the exterior boundary lines of the units, as surveyed, may differ from those lines as shown on the attached plat because of the requirement that by survey the geologically significant wells be correctly located with respect to each other and to the unit boundary lines that they control.

2. The separately owned tracts, mineral leases and other property interests within the units established herein are hereby pooled, consolidated and integrated in accordance with Section 10, Title 30 of Louisiana Revised Statutes of 1950, with each tract sharing in unit production in the proportion that the surface area of such tract bears to the entire surface area of the unit in which it is situated. Also, all operations on and production from each unit shall be considered operations on and production from each of the separate tracts within said unit and under the terms of each of the mineral leases affecting said tracts.

3. The unit wells are designated in accordance with Finding No. 5 hereof.

4. The operator of the units hereby established is designated in accordance with Finding No. 6 hereof.

5. Any wells drilled to the Parker B Sand, Reservoir A, outside of the units hereby established shall be located in accordance with Finding No. 4 hereof.

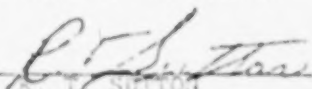
6. Except as they may be in conflict herewith, the provisions of the applicable Statewide Orders shall govern the exploration for and production of oil and gas from the Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana.

7. When there is obtained additional geological and engineering information indicating a required change or revision in the unit boundaries as adopted herein, or which would indicate a required change or revision of other provisions of this order, then the party or parties in possession of this additional information shall petition the Commissioner of Conservation for a public hearing for the purpose of considering appropriate changes.

This Order shall be effective on and after

April 10, 1975.

DEPARTMENT OF CONSERVATION
OF THE STATE OF LOUISIANA

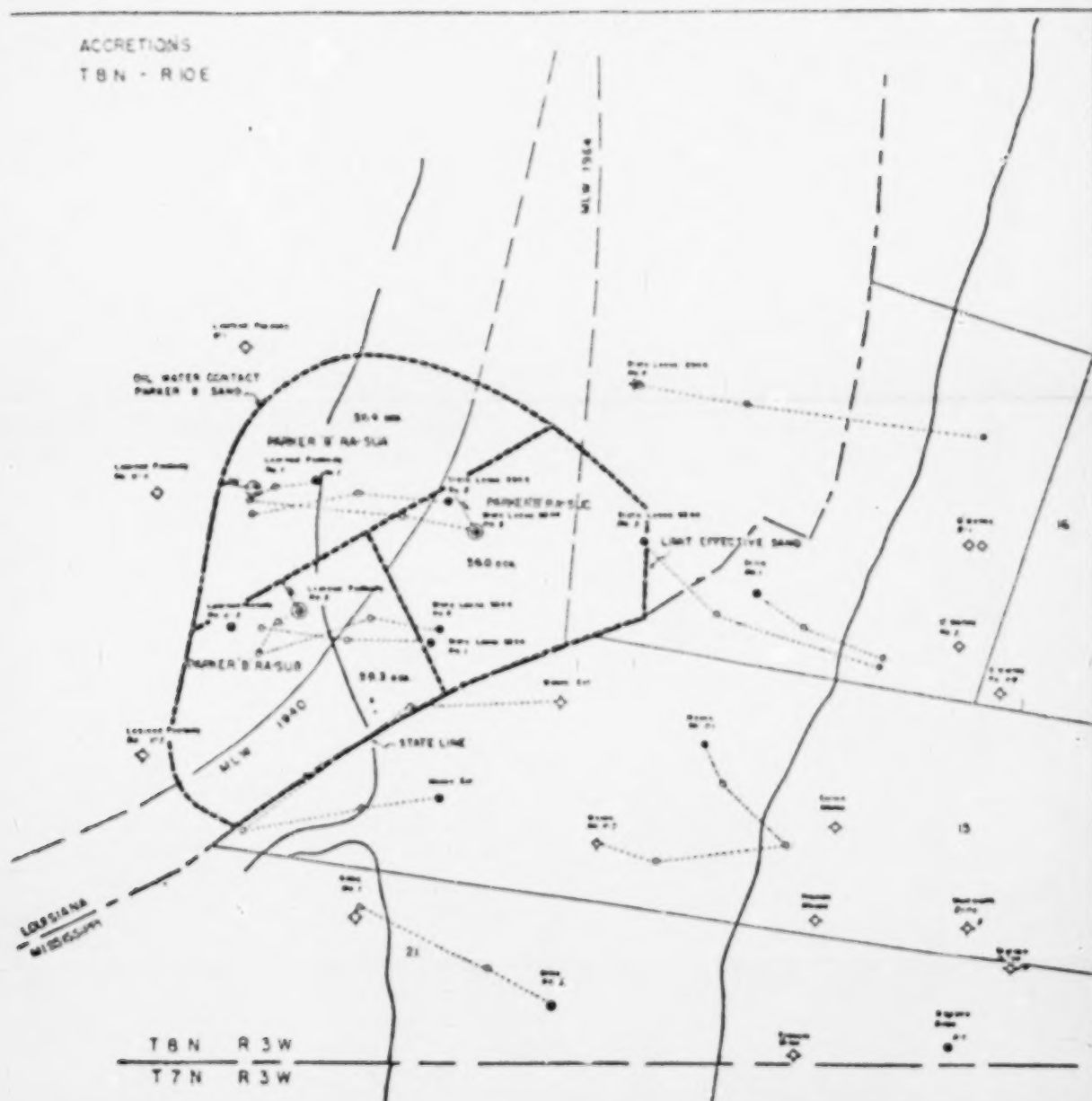

R. T. SUTTON
COMMISSIONER OF CONSERVATION

FJB

R&R - 011

Pruett & Hughes
Company Exhibit No. 4
for Docket No. 75-87
attached.

ACCRETIONS
T8N - R10E



NOTE: WELL NAMES AND MEAN LOW WATER DESIGNATIONS AS SHOWN ON THIS PLAT DO NOT INDICATE LAND OR LEASE BOUNDARIES OR OWNERSHIP

LEGEND:
DEVIATED HOLES

PROPOSED UNIT WELL

ORDER NO. 897-B

PRUET B. HUGHES COMPANY

GILES BEND FIELD

CONCORDIA PARISH, LOUISIANA

ADAMS COUNTY, MISSISSIPPI

PROPOSED PARKER 'B' SAND UNITS

0 500 1000 1500

EXHIBIT NO. 4

DATE: 4-10-78

STATE OF LOUISIANA
DEPARTMENT OF CONSERVATION
BATON ROUGE, LOUISIANA

February 21, 1972

ORDER NO. 887-A

Order establishing rules and regulations and creating
drilling and production units for the Parker "A" Sand,
Giles Bend Field, Concordia Parish, Louisiana.

* * * * *

Pursuant to power delegated under the laws of the State of Louisiana, and particularly Title 30 of Louisiana Revised Statutes of 1950, and after a Public Hearing held under Docket No. 72-40, in Shreveport, Louisiana, on January 27, 1972, upon the application of Pruet & Hughes Company, following legal publication of notice and notice in accordance with rules prescribed by the Commissioner of Conservation, the following order is issued and promulgated by the Commissioner of Conservation as being reasonably necessary to conserve the oil and gas resources of the State, to prevent waste as defined by law, to avoid the drilling of unnecessary wells, and otherwise, to carry out the provisions of the laws of this State.

DEFINITION

The Parker "A" Sand in the Giles Bend Field is hereby defined as that oil bearing sand encountered between the depths of 5,612 feet and 5,619 feet (electric log measurements) in the Pruet & Hughes Company (originally Dave Gammill) #1 Learned Peabody Well, located 12,345 feet South and 1,700 feet East of the common corner of Sections 15, 16 and 53, Township 8 North, Range 10 East, on alluvion to said Township 8 North, Range 10 East, Concordia Parish, Louisiana.

FINDINGS

The Commissioner of Conservation finds as follows:

1. That the establishment of rules and regulations and the creation of drilling and production units for the Parker "A" Sand in the Giles Bend Field, Concordia Parish, Louisiana, are necessary to insure orderly development, to prevent waste and to avoid the drilling of unnecessary wells.

2. That all available geological and engineering data indicate that the drilling and production units, as more particularly shown on the plat labeled "State Exhibit A for Docket No. 72-40," which plat is the same as applicant's Exhibit #4 with the exception of SU K and the additional SU L, are reasonable and should be adopted; that each such unit can be efficiently and economically drained by one well, and that the creation of such units should reasonably insure to each separate tract therein its just and equitable share of the reservoir content.

3. That evidence at the hearing indicated SU K of applicant's Exhibit #4 should be enlarged to take in acreage productive of Parker "A" Sand. SU L should be added in order to accommodate any future drilling which may be contemplated in that area.

4. That the separately owned tracts, mineral leases and other property interests within the units created herein should be force pooled and integrated in accordance with Section 10 of Title 30 of Louisiana Revised Statutes of 1950, with each tract sharing in production on a surface acreage basis of participation.

5. That unit wells for the units herein created should be designated as follows:

PARKER "A" SU E - Pruet & Hughes - State Lease 5544 #3 Well;
PARKER "A" SU J - Pruet & Hughes - Learned Peabody #U-2 Well;
PARKER "A" SU K - Pruet & Hughes - State Lease 5544 #1 Well.

6. That Pruet & Hughes Company should be designated as operator of all of the units created herein, except SU L.

7. That any wells hereafter drilled to the Parker "A" Sand, either upon or adjacent to the units established herein, should be located in accordance with Statewide Order No. 29-E, except that the locations of the unit wells already drilled, and referred to in Finding No. 5 above, should be approved. Further, if any Armstrong Sand wells now completed which may be recompleted as Parker "A" Sand wells, then such wells should also be approved as unit wells.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. The units, as more particularly shown on the plat labeled "State Exhibit A for Docket No. 72-40," attached hereto and made a part hereof, be and the same are hereby approved and adopted as drilling and production units for the production of oil from the Parker "A" Sand in the Giles Bend Field, Concordia Parish, Louisiana.

These units have not been surveyed, and when a survey plat of said units showing the exterior limits thereof, the total acreage therein, and the acreage in each separately owned tract, has been submitted to and accepted by the Commissioner of Conservation or any member of his staff, insofar as it shows the exterior limits of the units, said plat shall be substituted for the above Exhibit and made a part of this Order by reference. In the event of conflicting claims of ownership of acreage in any unit, such acreage may be so identified on the survey plat. Such identification of acreage subject to conflicting claims shall not be construed as an acknowledgment of the validity of any such claims and shall not affect any other acreage in separately owned tracts in the unit.

2. The separately owned tracts, mineral leases and other property interests within the units established herein are hereby pooled, consolidated and integrated in accordance with Section 10, Title 30 of Louisiana Revised Statutes of 1950, with each tract sharing in unit production in the proportion that the surface area of such tract bears to the entire surface area of the unit in which it is located. Also, all operations on and production from each such unit shall be considered operations on and production from each of the separate tracts within said unit and under the terms of each of the mineral leases affecting said tracts.

3. Unit wells are hereby designated in accordance with Finding No. 5 above.

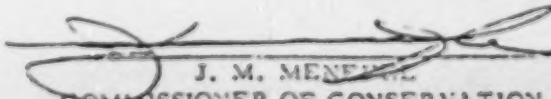
4. Pruet & Hughes Company is hereby designated as unit operator of all of the units created herein, except SU L.

5. Any wells drilled to the Parker "A" Sand, either upon or adjacent to the units established herein, shall be located in accordance with Finding No. 7 hereof.

6. Except as they may be in conflict herewith, the provisions of all applicable Statewide Orders shall govern the exploration for and production of oil from the Parker "A" Sand in the Giles Bend Field, Concordia Parish, Louisiana, as well as the method of allocating allowable production.

This Order shall be effective on and after February 1, 1972.

DEPARTMENT OF CONSERVATION
OF THE STATE OF LOUISIANA

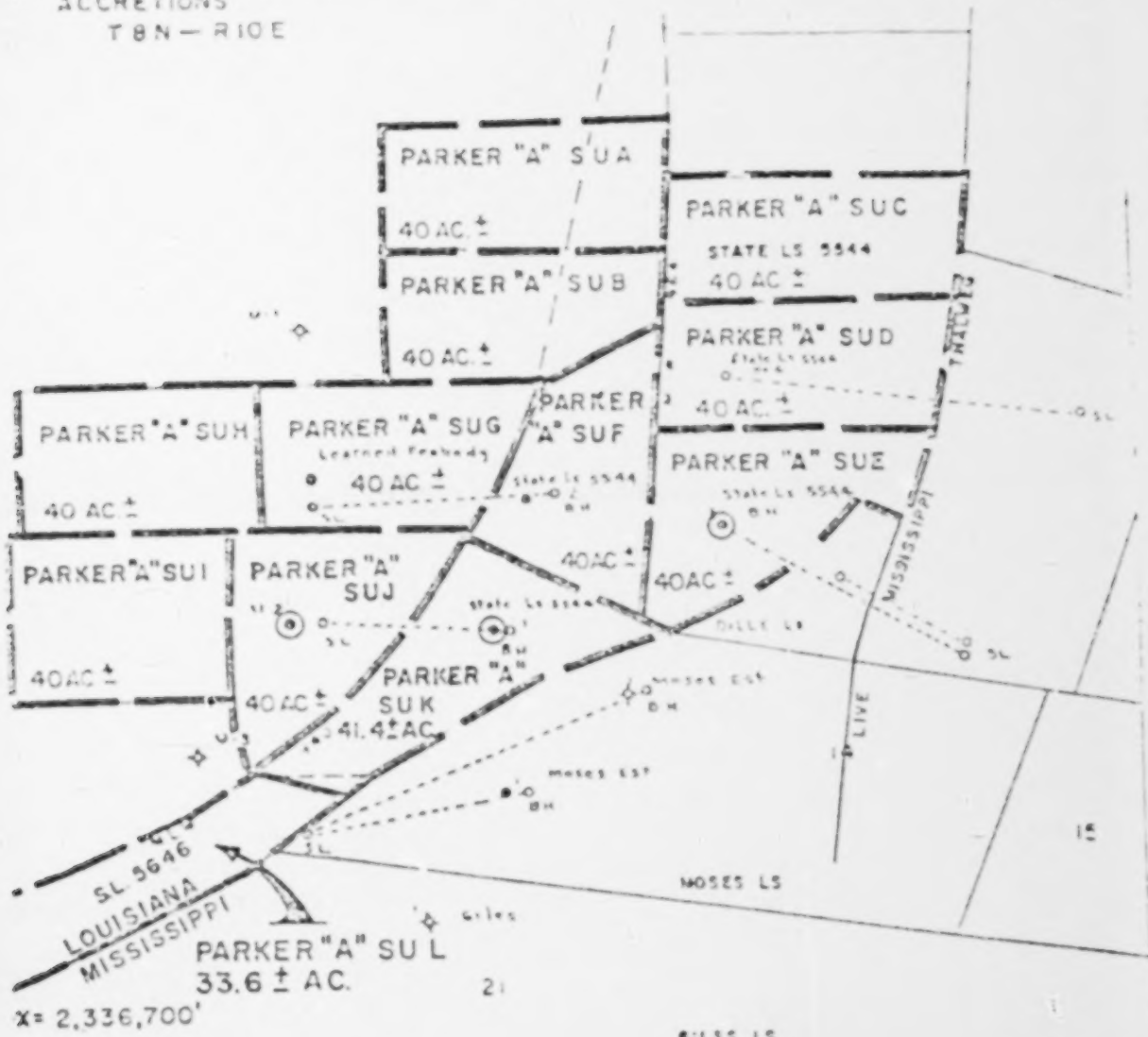

J. M. MENEILLY
COMMISSIONER OF CONSERVATION

(FJD/tr-2/21/72)

State Ex. "A" - Att.

H&R - Oil

ACCRETIONS
T8N-R10E



T8N-R3W
T7N-R3W

GILES LS

STATE EXHIBIT "A"
GILES BEND FIELD
CONCORDIA PARISH, LOUISIANA
PARKER "A" SAND UNITS

HEARING DOCKET NO. 72-40

ORDER NO 887-A

SCALE - FEET

DEPARTMENT OF CONSERVATION, LOUISIANA GEOLOGICAL SURVEY

FEB 17, 1972

Dept of Conservation Hearing Jan. 27, 1972

Base map after Pruet & Hughes Co. Ex 4

DATE: 1-27-72

DOCKET
NO. 72-40

4

5

MOR
Bd of Supv

NOTE: WELL NAMES AND MEAN LOW WATER
DESIGNATIONS AS SHOWN ON THIS PLAT
DO NOT INDICATE LAND OR LEASE
BOUNDARIES OR OWNERSHIP

STATE OF LOUISIANA
DEPARTMENT OF CONSERVATION
BATON ROUGE, LOUISIANA

February 21, 1972

ORDER NO. 887

Order establishing rules and regulations and creating
drilling and production units for the Armstrong Sand,
Giles Bend Field, Concordia Parish, Louisiana.

* * * * *

Pursuant to power delegated under the laws of the State of Louisiana, and particularly Title 30 of Louisiana Revised Statutes of 1950, and after a Public Hearing held under Docket No. 72-39 in Shreveport, Louisiana, on January 27, 1972, upon the application of Pruet & Hughes Company, following legal publication of notice and notice in accordance with rules prescribed by the Commissioner of Conservation, the following order is issued and promulgated by the Commissioner of Conservation as being reasonably necessary to conserve the oil and gas resources of the State, to prevent waste as defined by law, to avoid the drilling of unnecessary wells and, otherwise, to carry out the provisions of the laws of this State.

DEFINITION

The Armstrong Sand in the Giles Bend Field is hereby defined as that oil bearing sand encountered between the depths of 5,504 feet and 5,553 feet (electric log measurements) in the Pruet & Hughes Company (originally Dave Cammill) #1 Learned Peabody Well, located 12,345 feet South and 1,700 feet East of the common corner of Sections 15, 16 and 53, Township 8 North, Range 10 East, on allusion to said Township 8 North, Range 10 East, Concordia Parish, Louisiana.

FINDINGS

The Commissioner of Conservation finds as follows:

1. That the establishment of rules and regulations and the creation of drilling and production units for the Armstrong Sand in the Giles Bend Field, Concordia Parish, Louisiana, are necessary to insure orderly development, to prevent waste and to avoid the drilling of unnecessary wells.
2. That all available geological and engineering data indicate that the drilling and production units, as more particularly shown on the plat labeled "State Exhibit A for Docket No. 72-39," which plat is the same as applicant's Exhibit #4 with the exception of SU K and the additional SU L, are reasonable and should be adopted; that each such unit can be efficiently and economically drained by one well, and that the creation of such units should reasonably insure to each separate tract therein its just and equitable share of the reservoir content.
3. That evidence at the hearing indicated SU K of applicant's Exhibit #4 should be enlarged to take in acreage productive of Armstrong Sand. SU L should be added in order to accommodate any future drilling which may be contemplated in that area.
4. That the separately owned tracts, mineral leases and other property interests within the units created herein should be force pooled and integrated in accordance with Section 10 of Title 30 of Louisiana Revised Statutes of 1950, with each tract sharing in production on a surface acreage basis of participation.
5. That unit wells for the units herein created should be designated as follows:

ARMSTRONG SU F - Pruet & Hughes - State Lease 5544 #2 Well
ARMSTRONG SU G - Pruet & Hughes - Learned Peabody Well #1.

6. That Pruet & Hughes Company should be designated as operator of all of the units created herein, except SU L.

7. That any wells hereafter drilled to the Armstrong Sand, either upon or adjacent to the units established herein, should be located in accordance with Statewide Order No. 29-E, except that the locations of the unit wells already drilled, and referred to in Finding No. 5 above, should be approved.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. The units, as more particularly shown on the plat labeled "State Exhibit A for Docket No. 72-39," attached hereto and made a part hereof, be and the same are hereby approved and adopted as drilling and production units for the production of oil from the Armstrong Sand in the Giles Bend Field, Concordia Parish, Louisiana.

These units have not been surveyed, and when a survey plat of said units showing the exterior limits thereof, the total acreage therein, and the acreage in each separately owned tract, has been submitted to and accepted by the Commissioner of Conservation or any member of his staff, insofar as it shows the exterior limits of the units, said plat shall be substituted for the above Exhibit and made a part of this Order by reference. In the event of conflicting claims of ownership of acreage in any unit, such acreage may be so identified on the survey plat. Such identification of acreage subject to conflicting claims shall not be construed as an acknowledgment of the validity of any such claims and shall not affect any other acreage in separately owned tracts in the unit.

2. The separately owned tracts, mineral leases and other property interests within the units established herein are hereby pooled, consolidated and integrated in accordance with Section 10, Title 30 of Louisiana Revised Statutes of 1950, with each tract sharing in unit production in the proportion that the surface area of such tract bears to the entire surface area of the unit in which it is located. Also, all operations on and production from each such unit shall be considered operations on and production from each of the separate tracts within said unit and under the terms of each of the mineral leases affecting said tracts.

3. Unit wells are hereby designated in accordance with Finding No. 5 above.

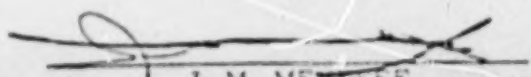
4. Pruet & Hughes Company is hereby designated as unit operator of all of the units created herein, except SU L.

5. Any wells drilled to the Armstrong Sand, either upon or adjacent to the units established herein, shall be located in accordance with Statewide Order No. 29-E; provided, however, that the locations of each of the unit wells designated in Finding No. 5 of this Order are hereby approved.

6. Except as they may conflict herewith, the provisions of all applicable Statewide Orders shall govern the exploration for and production of oil from the Armstrong Sand in the Giles Bend Field, Concordia Parish, Louisiana, as well as the method of allocating allowable production.

This Order shall be effective on and after February 1, 1972.

DEPARTMENT OF CONSERVATION
OF THE STATE OF LOUISIANA


J. M. MENEFEE
COMMISSIONER OF CONSERVATION

(FJB/tr-2/21/72)

State Ex. "A" - Att.

ACCRETIONS
T 8 N - R 10 E



X = 2,336,700'
T 8 N - R 3 W
T 7 N - R 3 W

STATE EXHIBIT "A"
GILES BEND FIELD
CONCORDIA PARISH, LOUISIANA
ARMSTRONG SAND UNITS

HEARING DOCKET NO. 72-39

ORDER NO. 887

SCALE - FEET

NOTE: WELL NAMES AND MEAN LOW WATER
DESIGNATIONS AS SHOWN ON THIS PLAT
DO NOT INDICATE LAND OR LEASE
BOUNDARIES OR OWNERSHIP.

DEPARTMENT OF CONSERVATION, LOUISIANA GEOLOGICAL SURVEY

FEB. 9, 1972

Dept of Conservation Hearing Jan 27, 1972

Boys - 729 after Prue F. Hughes Co. Ex. 4

STATE OF LOUISIANA
DEPARTMENT OF CONSERVATION
BATON ROUGE, LOUISIANA

April 22, 1975

ORDER NO. 887-B

Order concerning rules and regulations and the creation of three drilling and production units for the Parker B Sand, Reservoir A, in the GILES BEND FIELD, Concordia Parish, Louisiana.

* * * * *

Pursuant to power delegated under the laws of the State of Louisiana, and particularly Title 30 of Louisiana Revised Statutes of 1950, and after a public hearing held in Shreveport, Louisiana, on April 10, 1975, under Docket No. 75-87, upon the application of Pruet & Hughes Company, following legal publication of notice and notice in accordance with rules prescribed by the Commissioner of Conservation, the following order is issued and promulgated by the Commissioner of Conservation as being reasonably necessary to conserve the natural resources of the State, to prevent waste as defined by law, to avoid the drilling of unnecessary wells and otherwise to carry out the provisions of the laws of this State.

DEFINITION

The Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana, is hereby defined as being that oil and gas bearing sand encountered between the depths of 5,622 feet and 5,662 feet (electrical log measurements) in the Pruet & Hughes (originally Dave Garrill) No. 1 Learned-Peabody Well, located 12,345 feet South and 1,700 feet East of the common corner of Sections 15, 16 and 53, Township 8 North, Range 10 East, on alluvion to said Township 8 North, Range 10 East, Concordia Parish, Louisiana.

FINDINGS

The Commissioner of Conservation finds as follows:

1. That the establishment of rules and regulations and the creation of three drilling and production units for the Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana, are necessary to insure orderly development, to prevent waste, and to avoid the drilling of unnecessary wells.
2. That the available geological and engineering data indicate that the units, all as more particularly shown on the plat labeled "Pruet & Hughes Company Exhibit No. 4 for Docket No. 75-87," are reasonable and should be adopted; that each unit can be efficiently and economically drained by one well located thereon and that creation of such units should reasonably assure to each separate tract its just and equitable share of the contents of the reservoir.
3. That the separately owned tracts, mineral leases and other property interests within the unit created herein should be force pooled and integrated with each separate tract sharing in unit production on a surface acreage basis of participation.

4. That any wells drilled to the Parker B Sand, Reservoir A, outside of the units herein established should be located in accordance with Statewide Order No. 29-E.
5. That the wells as shown on the unit plat should be designated as the unit wells for the respective units in which they are located.
6. That Pruet & Hughes Company should be designated as operator of the units created herein.

O R D E R

NOW, THEREFORE, IT IS ORDERED THAT:

1. The drilling and production units shown on the plat labeled "Pruet & Hughes Company Exhibit No. 4 for Docket No. 75-87," attached hereto and made a part hereof, be and they are hereby approved and adopted as drilling and production units for the exploration for and production of oil and gas from the Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana.

The units have not been surveyed, and when a survey plat of said units showing the exterior limits thereof, the total acreage therein, and the acreage in each separately owned tract, has been submitted to and accepted by the Commissioner of Conservation or any member of his staff, insofar as it shows the exterior limits of the units, said plat shall be substituted for the above exhibit and made a part of this order by reference. In the event of conflicting claims of ownership of acreage in any unit, such acreage may be so identified on the survey plat. Such identification of acreage subject to conflicting claims shall not be construed as an acknowledgment of the validity of any such claims, and shall not affect any other acreage in separately owned tracts in the units.

The survey plat for each unit shall be prepared in accordance with the requirements for unit plats and survey plats adopted by the Commissioner of Conservation. It is recognized that the exterior boundary lines of the units, as surveyed, may differ from those lines as shown on the attached plat because of the requirement that by survey the geologically significant wells be correctly located with respect to each other and to the unit boundary lines that they control.

2. The separately owned tracts, mineral leases and other property interests within the units established herein are hereby pooled, consolidated and integrated in accordance with Section 10, Title 30 of Louisiana Revised Statutes of 1950, with each tract sharing in unit production in the proportion that the surface area of such tract bears to the entire surface area of the unit in which it is situated. Also, all operations on and production from each unit shall be considered operations on and production from each of the separate tracts within said unit and under the terms of each of the mineral leases affecting said tracts.

3. The unit wells are designated in accordance with Finding No. 5 hereof.

4. The operator of the units hereby established is designated in accordance with Finding No. 6 hereof.

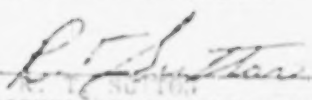
5. Any wells drilled to the Parker B Sand, Reservoir A, outside of the units hereby established shall be located in accordance with Finding No. 4 hereof.

6. Except as they may be in conflict herewith, the provisions of the applicable Statewide Orders shall govern the exploration for and production of oil and gas from the Parker B Sand, Reservoir A, in the Giles Bend Field, Concordia Parish, Louisiana.

7. When there is obtained additional geological and engineering information indicating a required change or revision in the unit boundaries as adopted herein, or which would indicate a required change or revision of other provisions of this order, then the party or parties in possession of this additional information shall petition the Commissioner of Conservation for a public hearing for the purpose of considering appropriate changes.

This Order shall be effective on and after
April 10, 1975.

DEPARTMENT OF CONSERVATION
OF THE STATE OF LOUISIANA


R. T. SUTTON
COMMISSIONER OF CONSERVATION

FJB

R&R - 011

Pruett & Hughes
Company Exhibit No. 4
for Docket No. 75-87
attached.

ACCRETIONS
T8N - R10E



NOTE: WELL NAMES AND MEAN LOW WATER DESIGNATIONS AS SHOWN ON THIS PLAT DO NOT INDICATE LAND OR LEASE BOUNDARIES OR OWNERSHIP

LEGEND:
DEVIATED HOLES

PROPOSED UNIT WELL

ORDER NO. 887-B

PRUET & HUGHES COMPANY

GILES BEND FIELD
CONCORDIA PARISH, LOUISIANA
ADAMS COUNTY, MISSISSIPPI

PROPOSED PARKER 'B' SAND UNITS

0 500 1000 1500

EXHIBIT NO. 4 DATE 4-10-73

DOCKET NO. 75-87

CERTIFICATE

Cecil A. Ford, attorney for certain of the defendants as hereinabove set forth and for and on behalf of all of said defendants, does hereby certify that he has served a true and correct copy of the foregoing Petition for Removal of said cause along with a true and correct copy of the Bond herein filed with respect to said petition by mailing the same via United States Mail, postage prepaid, to Honorable M. Emmett Ward of Ward, Martin, Terry and Way, P. O. Box 789, Vicksburg, Mississippi 39180, attorney of record for plaintiff.

Dated this 20th day of July, 1979.


CECIL A. FORD

Supreme Court, U.S.
FILED

MAR 18 1980

MICHAEL ROOK, JR., CLERK

In the Supreme Court of the United States

**October Term, 1979
No. 86, Original**

STATE OF LOUISIANA, Plaintiff,

vs.

STATE OF MISSISSIPPI, ET AL., Defendants.

BRIEF IN OPPOSITION TO MOTION FOR LEAVE TO FILE COMPLAINT AND APPLICATION FOR STAY ORDER

**BILL ALLAIN, Attorney General
State of Mississippi**

**HUBBARD T. SAUNDERS, IV
Special Assistant Attorney General
Post Office Box 220
Jackson, Mississippi 39205
Telephone: (601) 354-7130**

**MITCHELL EMMETT WARD
WARD, MARTIN, TERRY & WAY
Post Office Box 789
Vicksburg, Mississippi 39180
Telephone: (601) 636-6565
*Attorneys for Defendants***

March, 1980

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<i>Nebraska v. Iowa</i> , 406 U.S. 117 (1972)	3
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<i>Rhode Island v. Massachusetts</i> , 37 U.S. (12 Pet.) 657 (1838)	3

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In the Supreme Court of the United States

October Term, 1979

No. 86, Original

STATE OF LOUISIANA, *Plaintiff,*

vs.

STATE OF MISSISSIPPI, ET AL., *Defendants.*

BRIEF IN OPPOSITION TO MOTION FOR LEAVE TO FILE COMPLAINT AND APPLICATION FOR STAY ORDER

The State of Mississippi and Avery B. Dille, Jr., [sometimes hereinafter referred to as Mississippi], the defendants in this original action, respectfully submit this brief in opposition to the Motion for Leave to File Complaint and Application for Stay Order filed in this action on December 21, 1979, by the plaintiff, the State of Louisiana [hereinafter referred to as Louisiana].

JURISDICTION

Louisiana invokes this Court's original jurisdiction under Article III, Section 2, Clause 2, of the United States Constitution and 28 U.S.C. § 1251(a). Complaint ¶ 1.

U. S. Const., Art. III, § 2, cl. 2 provides in pertinent part:

In all Cases . . . in which a State shall be a Party, the Supreme Court shall have original Jurisdiction. . . . 28 U.S.C. § 1251(a) provides:

The Supreme Court shall have original and exclusive jurisdiction of all controversies between two or more States.

QUESTION PRESENTED

Whether Louisiana's Motion for Leave to File Complaint and Application for Stay Order should be granted in view of the pending federal district court action which involves the same identical controversy.

STATEMENT OF THE CASE

Louisiana seeks leave of this Court to file its complaint against Mississippi and Avery B. Dille, Jr., a citizen of Mississippi who owns lands in Adams County, Mississippi, which border the Mississippi River across from Concordia Parish, Louisiana. Louisiana seeks an adjudication of the boundary line in the Mississippi River between Louisiana and Mississippi just above the area of the river known as Giles Bend Cut-off. Louisiana specifically seeks an adjudication that State of Louisiana Well No. 3 is in Louisiana.

In a civil action presently pending in the United States District Court for the Southern District of Mississippi, *Avery B. Dille, Jr. v. Pruet & Hughes Co., et al.*, Civil Action No. W79-0069(R), App. C, Dille seeks an adjudication that the live thalweg of the river has migrated to the west by accretion to such an extent that State of Louisiana Well No. 3 is now located in Mississippi. Louisiana is a defendant in the district court action.

ARGUMENT

This action is clearly within this Court's original jurisdiction under Article III, Section 2, Clause 2 of the United States Constitution and 28 U.S.C. § 1251(a). Indeed, this Court has, on numerous occasions, exercised original jurisdiction over boundary disputes between states. *E.g.*, *Ohio v. Kentucky*, 100 S. Ct. 588 (1980); *Mississippi v. Arkansas*, 415 U.S. 289 (1974); *Nebraska v. Iowa*, 406 U.S. 117 (1972); *Louisiana v. Mississippi*, 384 U.S. 24 (1966); *Rhode Island v. Massachusetts*, 37 U.S. (12 Pet.) 657 (1838). Here, however, the motion for leave to file the complaint should be denied because of the pendency of the federal district court action.

In *Arizona v. New Mexico*, 425 U.S. 794 (1976), this Court denied Arizona's motion for leave to file a bill of complaint by concluding: "In the circumstances of this case, we are persuaded that the pending state-court action provides an appropriate forum in which the issues tendered here may be litigated." *Id.* at 797 (emphasis in original). The Court prefaced its holding by the following discussion of the invocation of original jurisdiction:

We recently reaffirmed that "our original jurisdiction should be invoked sparingly" in *Illinois v. City of Milwaukee*, 406 U.S. 91, 93-94 (1972), where we additionally stated:

"We construe 28 U.S.C. § 1251(a)(1), as we do Art. III, § 2, cl. 2, to honor our original jurisdiction but to make it obligatory only in appropriate cases. And the question of what is appropriate concerns, of course, the seriousness and dignity of the claim; yet beyond that it necessarily involves the availability of another forum where there is jurisdiction over the named parties, where the

issues tendered may be litigated, and where appropriate relief may be had. We incline to a sparing use of our original jurisdiction so that our increasing duties with the appellate docket will not suffer."

And, nearly 40 years ago in *Massachusetts v. Missouri*, 308 U.S. 1, 18-19 (1939), the Court said:

"In the exercise of our original jurisdiction so as truly to fulfill the constitutional purpose we not only must look to the nature of the interest of the complaining State—the essential quality of the right asserted—but we must also inquire whether recourse to that jurisdiction . . . is necessary for the State's protection. . . . We have observed that the broad statement that a court having jurisdiction must exercise it . . . is not universally true but has been qualified in certain cases where the federal courts may, in their discretion, properly withhold the exercise of the jurisdiction conferred upon them where there is no want of another suitable forum."

See also *Washington v. General Motors Corp.*, 406 U.S. 109, 113-114 (1972).

425 U.S. at 796-97.

Here, Louisiana has an adequate forum to present its claims—the United States District Court for the Southern District of Mississippi where the same issues are before the district court. A denial of Louisiana's motion would remit Louisiana to an adequate forum and allow this Court to avoid a further drain of its time and resources from its appellate docket, while, at the same time, ensuring that this Court will still be able to review this case through a writ of certiorari.

CONCLUSION

For these reasons, the Court should deny the Motion for Leave to File a Complaint and the Application for Stay Order.

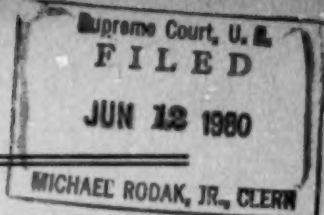
Respectfully submitted,

BILL ALLAIN, Attorney General
State of Mississippi

By: HUBBARD T. SAUNDERS, IV
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Attorneys for Defendants

March, 1980



In the Supreme Court of the United States

October Term, 1979
No. 86, Original

STATE OF LOUISIANA, Plaintiff,
vs.
STATE OF MISSISSIPPI, ET AL., Defendants.

ANSWER

BILL ALLAIN, Attorney General
State of Mississippi
HUBBARD T. SAUNDERS, IV
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Attorneys for Defendants

June, 1980

In the Supreme Court of the United States

October Term, 1979

No. 86, Original

STATE OF LOUISIANA, *Plaintiff,*

vs.

STATE OF MISSISSIPPI, ET AL., *Defendants.*

ANSWER

COME NOW the defendants, the State of Mississippi, by and through Bill Allain, the Attorney General of the State of Mississippi, and Avery B. Dille, Jr., Richard T. Dille, and Henry W. Dille, by and through their attorney, Mitchell Emmett Ward, and for their answer to the Complaint of the State of Louisiana, respectfully state as follows:

1. That they admit that the jurisdiction of this Court is properly invoked.

2. That they admit the material allegations of Paragraph II of the Complaint.

3. That they admit the material allegations of Paragraph III of the Complaint.

4. That they admit the material allegations of Paragraph IV of the Complaint.

5. That they admit the material allegations of Paragraph V of the Complaint.

6. That they admit the material allegations of Paragraph VI of the Complaint.

7. That they admit the material allegations of Paragraph VII of the Complaint.

8. That they admit the material allegations of Paragraph VIII of the Complaint.

9. That they admit the material allegations of Paragraph IX of the Complaint.

10. That they admit the material allegations of Paragraph X of the Complaint.

11. That they admit the material allegations of the first two paragraphs of Paragraph XI of the Complaint and admit that initially the bottom hole of said well was within the confines of the State of Louisiana when it commenced production of oil in commercial quantities on or about January 15, 1972, but deny that said well has continued to remain in the State of Louisiana and affirmatively state and allege that since January 15, 1972, the thalweg of the Mississippi River has moved, by the process of accretion, to the west of said well so that said well is located in the State of Mississippi and is, therefore, subject to the exclusive and complete jurisdiction of the State of Mississippi.

12. That they deny that the State of Louisiana has complete jurisdiction over the oil well in question although they admit that so long as said well was within the confines of the State of Louisiana, it had jurisdiction to permit and regulate the well after it reached Louisiana lands and that while said well was located in Louisiana it regulated the production thereof, supervised allowables, required production reports and created a drilling unit and received royalties therefrom.

13. That they admit the material allegations of Paragraph XIII of the Complaint.

14. That they admit the material allegations of Paragraph XIV of the Complaint.

15. That they admit the material allegations of Paragraph XV of the Complaint.

16. That they admit the material allegations of Paragraph XVI of the Complaint.

17. That they admit the material allegations of Paragraph XVII so far as they describe the construction of the Giles Bend Cut-off, but deny the remaining allegations of said Paragraph XVII.

18. That they admit the material allegations of Paragraph XVIII of the Complaint.

19. That they admit that Paragraph XIX of the Complaint states the legal position of the State of Louisiana but they deny the material allegations of Paragraph XIX of the Complaint.

20. That they admit that the location of the boundary line between Mississippi and Louisiana is of major and substantial significance but they deny the material allegations of Paragraph XX of the Complaint.

21. That they deny the material allegations of Paragraph XXI of the Complaint.

22. That they admit the material allegations of Paragraph XXII of the Complaint.

23. That they admit that the property rights of the State of Louisiana and the boundary line between the States of Louisiana and Mississippi are involved in the litigation now pending in the United States District Court for the Southern District of Mississippi, but they deny the material allegations of Paragraph XXIII of the Complaint.

24. That they deny the material allegations of Paragraph XXIV of the Complaint.

WHEREFORE, PREMISES CONSIDERED, the defendants respectfully pray:

1. That the Court appoint a senior federal judge to serve as a special master in this original action;
2. That the prayer for relief contained in the Complaint be denied in its entirety;
3. That the Court adjudicate and declare that the subject lands and oil well are located within the territorial boundaries of the State of Mississippi;
4. That all costs incurred in this original action be assessed against the plaintiff; and
5. That the Court grant such other and further relief as may be proper, equitable, and just.

Respectfully submitted,

THE STATE OF MISSISSIPPI, Defendant
By: BILL ALLAIN, Attorney General
State of Mississippi

HUBBARD T. SAUNDERS, IV
Special Assistant Attorney General
P. O. Box 220
Jackson, Mississippi 39205
Telephone: (601) 354-7130

By: s/ HUBBARD T. SAUNDERS, IV
Attorneys for the State of Mississippi
AVERY B. DILLE, JR., RICHARD T. DILLE,
AND HENRY W. DILLE, Defendants

By: s/ MITCHELL EMMETT WARD
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Post Office Box 789
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Their Attorney

June, 1980

Office-Supreme Court, U.S.
FILED

JUN 27 1983

ALEXANDER L. STEVAS,
CLERK

IN THE
Supreme Court of the United States

OCTOBER TERM, 1982

NO. 86, Original

STATE OF LOUISIANA,

Plaintiff,

vs.

STATE OF MISSISSIPPI, ET AL.

Defendants.

REPORT OF SPECIAL MASTER

CHARLES J. MEYERS
Special Master

June 15, 1983

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I. Preliminary Statement

This action was brought by the State of Mississippi and Avery B. Dille, Jr., a Mississippi landowner, to determine the boundary between the two states in the vicinity of the Giles Bend Cutoff in the Mississippi River. Giles Bend Cutoff lies about four miles upstream from Natchez. The sole point at issue is the location of the boundary with respect to the bottom hole of a producing oil well situated beneath the bed of the river. If the boundary lies east of the bottom hole of the well, it is located in Louisiana; if west thereof, in Mississippi. Under Louisiana law, the state owns the bed of the river to the boundary; under Mississippi law, the riparian owner has title to the bed.

On July 8, 1970, Louisiana in its proprietary capacity executed an oil and gas lease covering the portion of the bed now in dispute, and on January 20, 1971, Avery B. Dille, Jr., acting for himself and others, did the same. Both leases were made to the same operator, and both described the boundary of the leasehold as the state line. In January, 1972, the oil and gas lessee completed an oil well on the parcel, drilling the well directionally from a surface location on the Dille land. The well, State of Louisiana Well No. 3, has been producing oil continuously since its completion.

The parties agree that the bottom hole location of the well was within the State of Louisiana at the date of its completion and the commencement of production. Louisiana maintains that the bottom hole location has remained within Louisiana during all years relevant to this proceeding. Mississippi and Avery B. Dille, Jr. assert that the state line migrated to the west, putting the bottom hole location of the well within the State of Mississippi for most of 1975, all of 1976, most of 1977, and seven months of 1981.

In addition to the competition between Louisiana and the Dilles over royalty from the well, there is involved here the jurisdiction of the two states for purposes of regulation and taxation.

II. History of the Litigation

On June 20, 1979, Avery B. Dille, Jr. filed a suit in the Chancery Court of Adams County, Mississippi, naming as defendants the State of Louisiana and the persons and entities holding working interests in the leasehold estates created by the Louisiana and Dille leases. Dille alleged that the Louisiana-Mississippi boundary had migrated in a westerly direction to the extent that the bottom hole location of the well was within Mississippi and subject to the provisions of the Dille leases.

The defendants removed the action to the United States District Court for the Southern District of Mississippi, Western Division, where the action is docketed as Civil Action No. W79-0069(R). The State of Louisiana then filed a motion for leave to file a bill of complaint in the United States Supreme Court on December 21, 1979. The Court granted the motion by its order of April 14, 1980. On the joint motion of all parties concerned, the District Court issued an order on June 25, 1980, staying the proceedings before that court.

By its order of October 19, 1981, the United States Supreme Court appointed the undersigned Special Master in this proceeding, designated as *Louisiana v. Mississippi*, No. 86, Original. A pretrial conference was held on December 16, 1981, in New Orleans, Louisiana, at which time a schedule was established for discovery in this proceeding. By my order of June 16, 1982, a stipulated pretrial order was adopted, with certain amendments, and the case was set for trial commencing on September 20, 1982. Individuals and corporations asserting mineral interests derived from the Louisiana lease filed with me a motion for leave to intervene on July 27, 1982. By order of September 3, 1982, and the memorandum opinion attendant thereto (attached as Appendix A), the motion to intervene was denied and the location of the Louisiana-Mississippi boundary relative to the bottom hole location of the oil well was specified

as the proper issue for the Court to resolve. The trial then was held on September 20-22, 1982, in New Orleans, Louisiana.

Post-trial briefs were filed by the parties and I prepared a Draft Report for comment and further argument. A hearing was held in Denver on March 17, 1983, after which this final Report was prepared. Following the argument and prior to the preparation of this Report, Mississippi asked that a boundary be fixed by geodetic coordinates for each hydrograph introduced into evidence. I deal with that request in Part VI of this Report.

III. The Applicable Law

The boundary between Louisiana and Mississippi has been the subject of litigation in the past. *Louisiana v. Mississippi*, 384 U.S. 24 (1966); *Louisiana v. Mississippi*, 282 U.S. 458 (1931); *Louisiana v. Mississippi*, 202 U.S. 1 (1906). In the earliest of these cases, the Court ultimately defined the disputed boundary on the basis of long acquiescence in Louisiana's assertion of a particular boundary and its exercise of dominion and sovereignty over the territory in question, 202 U.S. at 53-54. However, in that case as well as the other two, the Court adopted the general rule that the live thalweg or thread of the navigable channel of the Mississippi River constitutes the boundary between the two states. 384 U.S. at 24; 282 U.S. at 459; 202 U.S. at 53.

The law is settled that a boundary so defined may be dynamic in that it follows the course of the stream as its bed and channel change by the processes of erosion and accretion. *Arkansas v. Tennessee*, 397 U.S. 88, 89-90 (1970); *Arkansas v. Tennessee*, 246 U.S. 158, 173 (1918). The boundary may become fixed when, by the process known as avulsion, the stream suddenly leaves its old bed and forms a new one. 397 U.S. at 89-90; 246 U.S. at 173, 175.

The fixing of a permanent boundary on account of avulsive activity, as an exception to the thalweg rule, has no application in this proceeding. The disputed area lies at the head of the Giles Bend Cutoff. All parties agree that construction of the Giles Bend Cutoff, when completed in 1938, resulted in an avulsion and the Louisiana-Mississippi boundary became fixed in the abandoned riverbed. However, upstream from the cutoff, the boundary continued to be defined by the live thalweg and thus remained migratory.¹

Although the controlling principle in this case can be stated without difficulty, its application is complicated by an unfortunate lack of precision and consistency in the cases with respect to the definition of the term thalweg. For example, the Court in the earliest boundary case involving Louisiana and Mississippi stated that, as commonly used, the term thalweg meant "the middle or deepest or most navigable channel." 202 U.S. at 49. These three standards need not yield the same result, and the Court has offered little guidance as to which one should be selected.

The thalweg doctrine has been characterized as a rule of statutory construction to effect the intent of Congress when it established the boundaries of newly admitted States by general references to a river or to the "middle" of a river. *Texas v. Louisiana*, 410 U.S. 702, 710 & n. 6 (1973). The Court there noted that the thalweg rule was adopted as authoritative doctrine in *Iowa v. Illinois*, 147 U.S. 1 (1982). In the latter

¹ Early in the proceedings, Louisiana contended that the fixed boundary established by the avulsion negated any effect on the boundary of movement of the live thalweg. Louisiana presented no evidence at trial to support this proposition and the argument was not presented in Louisiana's post-trial brief. I take the position of all parties to be that the location of the Louisiana-Mississippi boundary relative to the bottom hole location of the well must be determined by reference to the live thalweg. The sole evidence before the Court relates to the location of the live thalweg in the disputed area from 1972 through 1982.

case, Iowa asserted that the boundary between the two states was a line equidistant between the banks of the Mississippi River; Illinois asserted that the boundary was the channel upon which commerce on the river was usually conducted. The Court looked to principles of international law generally applicable when a navigable stream separates two sovereign states and found that the thalweg or middle of the channel of the stream was generally regarded to be the line of demarcation between the two states. 147 U.S. at 8. The thalweg doctrine was found to be premised on a legal presumption that the right to navigation on the river was common to both states. *Id.* The Court recognized that the concern about equal access for navigation was not particularly "cogent" in this country, but nonetheless concluded that the thalweg doctrine should control absent a statutory change or longstanding contrary usage. *Id.* at 10.

Notwithstanding the Court's reservations about the practical importance of equal access for navigation, the Court did state that equal access was the "controlling consideration" in reaching the conclusion that the boundary line in navigable rivers between two states generally is "the middle of the main channel of the river." *Id.* at 13. The Court has since noted that two states bordering on a navigable river have equal access to it for navigation in any event. *Texas v. Louisiana, supra*, at 710. Thus, equality of access for navigation has importance not as a policy matter, but as a matter of statutory construction to effect the intent of Congress. When, as in the present case, the thalweg doctrine applies, the operational definition given to the term thalweg should be consistent with the underlying premise of the doctrine which Congress is deemed to have had in mind.

The decision in *Iowa v. Illinois, supra*, is consistent with this proposition. The Court stated that when a river has more than one channel, the boundary lies at "the middle of the principal one, or, rather, the one usually followed." *Id.* at 13.

The Court also cited a treatise on international law to the effect that where the deepest channel in the river and the channel ordinarily used for navigation are not the same, the latter constitutes the line of demarcation between two states. *Id.* at 9.

The Court confronted a choice between the two standards in *Minnesota v. Wisconsin*, 252 U.S. 273 (1920). The deepest water hugged the western shoreline and Minnesota asserted that the boundary line should be placed in the middle of the deepest water. In ruling against Minnesota, the Court articulated the following interpretation of the *thalweg* doctrine:

The doctrine of *Thalweg*, a modification of the more ancient principle which required equal division of territory, was adopted in order to preserve to each State equality of right in the beneficial use of the stream as a means of communication. Accordingly, the middle of the principal channel of navigation is commonly accepted as the boundary. Equality in the beneficial use often would be defeated, rather than promoted, by fixing the boundary on a given line merely because it connects points of greatest depth. Deepest water and the principal navigable channel are not necessarily the same. The rule has direct reference to actual or probable use in the ordinary course, and common experience shows that vessels do not follow a narrow crooked channel close to shore, however deep, when they can proceed on a safer and more direct one with sufficient water.

Id. at 282.

Thus, the *thalweg* defines the boundary, and the ordinary course of traffic on the river defines the *thalweg*. More particularly, the *thalweg* is the track ordinarily taken by boats in their course downstream. *New Jersey v. Delaware*, 291 U.S. 361 (1934). The ultimate concern of the Court in applying the *thalweg* doctrine lies in identifying the actual or probable downstream course of river traffic. In the present case, the boundary line in the disputed area must be determined by reference to evidence of the course commonly taken down-

stream by vessels in navigating that reach of the river. The evidence presented by the parties must be weighed in terms of its value for making the necessary inference as to the ordinary course of downstream traffic on the river. This interpretation and application of the thalweg doctrine is entirely consistent with the approach adopted by the Special Master and sustained by the Court in *Louisiana v. Mississippi*, 384 U.S. 24 (1966).

IV. Summary of the Evidence

Louisiana presented the testimony of two expert witnesses, Mr. Hatley N. Harrison, Jr. and Mr. Leo Odom. Mississippi presented the testimony of one expert witness, Mr. Austin B. Smith.

Mississippi raised questions as to the relative qualifications of the witnesses. In particular, counsel for Mississippi and Mr. Dille emphasized the fact that Mr. Smith has had superior experience with boundary problems in alluvial rivers, since he has appeared as an expert witness in a number of boundary cases in which the thalweg doctrine applied.

The concept of the thalweg has a practical point of reference in the ordinary course of downstream traffic on the river. Identifying or giving one's considered opinion as to the location of the live thalweg in a particular reach of a particular river does not present a unique problem that is totally independent of problems generally relating to the behavior of rivers.

Each witness is a trained engineer who has spent most or all of a very lengthy professional career working on problems related to flood control, navigation, and the surveying and mapping of rivers. Each witness has professional qualifications needed to identify, interpret, and evaluate data relevant to the problem of locating the live thalweg in the disputed reach of the river. Each witness did a commendable job.

One hundred and one exhibits were entered into evidence in conjunction with the testimony of the expert witnesses. In particular, one or more hydrographic surveys were introduced into evidence for each of the years 1972 through 1982. The surveys are the product of the Corps of Engineers, U.S. Army Engineer District, Vicksburg, Mississippi. In every case, the surveys contain the following data:

- soundings which, at north-south feet, indicate the elevation of level;
- the average low water plane relative to mean sea level;
- contour lines which, at 10 foot water relative to the average low the configuration of the riverbed; and
- study gage data which indicate the actual stage of the river at and which, in conjunction with the the actual depth of water during a particular time period.

In most cases, the surveys also note the location of lights placed by the U.S. Coast Guard as an aid to navigation. A few of the surveys also note the location of buoys placed in the river by the U.S. Coast Guard and the location of floats, the configuration and spacing of which indicate the direction and relative velocity of the current in different parts of the river. The surveys and the data contained thereon provide substantial evidence upon which to base an inference as to the navigation line of downstream traffic in the ordinary course and, concomitantly, the location of the live thalweg.

In conjunction with the hydrographic surveys, Louisiana also introduced into evidence Channel Reports issued by the U.S. Coast Guard at various times during years 1976 through 1982. The reports are based on soundings taken on specified dates, and these dates generally were close in time to the date of the surveys with which they were introduced. These reports state a recommended course by reference to lights and buoys and, as stated therein, are to be used in conjunction with Corps

Engineers Navigation Maps, the Mississippi River System Light List, and Local Notice to Mariners. The latter publications were not offered into evidence. Given the operational definition of the thalweg stated above, the Channel Reports also provide substantial evidence upon which to base an inference as to the navigation line of downstream traffic in the ordinary course and, again, the location of the live thalweg.

Louisiana also introduced into evidence excerpts from annual editions of a document identified as Flood Control and Navigation Maps of the Mississippi River, which is prepared by the Mississippi River Commission, an organization under the supervision of the Corps of Engineers. In particular, Louisiana introduced into evidence Map No. 38 on each annual edition of which a channel line is depicted for the disputed reach of the river.

Mississippi objected to the evidence at the trial, on which a ruling was reserved, and continued the objection in its brief. As at trial, the precise nature of the objection is not altogether clear. It relates generally to the relevance of the maps and more particularly to the weight that should be given to the depicted channel line as evidence of a preferred sailing line in the disputed reach of the river.

The scale of the maps is very large, 1:62,500, and they are published annually. Each annual edition comes out several months into the year subsequent to the date of the edition. The scale of the maps and their infrequent publication indicate that they can serve only as a very general guide to navigation. The legend sheets on one of the documents, the 1981 edition, state in explaining the depicted channel line that the latest navigation bulletins should be consulted for detailed sailing directions.

The maps and the channel line depicted thereon constitute some evidence of the preferred sailing line in the disputed reach of the river, but they are not substantial evidence on that point.

However, as transposed onto the hydrographic surveys by Mr. Harrison and Mr. Odom, the reasonableness of the depicted channel line for purposes of locating the live thalweg can be evaluated by reference to all of the other data introduced into evidence which carry more weight. Therefore, use of the depicted channel line does not present a serious evidentiary problem. The depicted channel is persuasive evidence of the location of the live thalweg only to the extent that it is reasonably consistent with all of the other relevant data.

The hydrographic surveys provide a basis for briefly summarizing the general characteristics of the disputed reach of the river. Broadly defined for descriptive purposes, that area extends from Gibson Light on the Louisiana shore downstream to Giles Bend Cutoff Light on the Mississippi shore. Measured north-south, this portion of the river is approximately four miles long. The general shape of this portion of the river is an elbow-like bend with the concave bank on the Mississippi side. The Giles Bend Cutoff Light and the bottom hole location of the well are located approximately one mile downstream from the point of the elbow-like bend. The Gibson Light is located approximately $2\frac{1}{2}$ miles upstream from the point of the bend. Exhibit P-8 is an informative pictorial representation of this area.

If each column of soundings noted on the surveys is taken as a section of the river, an uninterrupted trough of deep water — water markedly deeper than in all other portions of a particular section and of consistent depth from section to section — is never present in the disputed area. A trough of deep water generally lies along the right descending (Louisiana) bank upstream from the point of the bend, although it covers most of the riverbed in some years, with the deepest water more toward the middle of the river. With less variation from year to year, another trough of deep water appears along the left descending (Mississippi) bank downstream from the point of the elbow. In general, the trough begins upstream from the Giles Bend Cutoff Light and is roughly 200 yards wide in

the portion of the river adjacent to that light. The left descending bank against which the trough lies is very steep. Variations from year to year related primarily to the rapidity with which the trough fans out to encompass most of the river downstream from the point of the bend.

The riverbed rises markedly between the two troughs of deep water. The size and shape of this expanse of shallower water and the configuration of the riverbed underlying it vary from year to year. In each of the years 1972 through 1982, downstream traffic through the Giles Bend area had to traverse an expanse of shallower water between the two troughs. This shallower passage was called a "crossing" by the experts, and that term is also used by mariners.

The absence of an obvious, uninterrupted trough of deep water throughout the Giles Bend area presumably underlies the disagreement between the expert witnesses. The disagreement is over the course of navigation through the crossing environment.

The sailing line or live thalweg placed on the hydrographic surveys by Mr. Harrison, an expert witness for Louisiana, passes to the east of the bottom hole location of the well for each of years 1972 through 1982 and, thus, leaves the well within the confines of the State of Louisiana throughout that period. The line so placed on the surveys by Mr. Harrison is, without modification, the channel line depicted on the various editions of Map No. 38. In most cases, the year of the edition of Map No. 38 is the same as the year of preparation and publication of the hydrographic survey onto which the channel line was transposed. In some cases the years differ. Mr. Harrison explained that either the edition of Map No. 38 was not available (1982) or another edition was more appropriate because it was based on data from a point closer in time to the date of the hydrographic survey.

Mr. Harrison transposed the channel line from Map No. 38 to the hydrographic survey by measuring from reference points

common to both and adjusting for the differences in scale. Both in response to direct examination and to cross-examination, Mr. Harrison testified that he did not restrict himself to the mechanical transposition of the channel line. He compared the transposed channel line to the data on the hydrographic surveys and in the Channel Reports. In each case, he could see no need to modify the transposed channel line.

Mr. Odom, Louisiana's other expert witness, placed three lines on hydrographic surveys for each of years 1972 through 1982. One of the lines was identified as the "geological thalweg." It is a line connecting the deepest points in each 1000-foot cross section of the river. The line is irregular in shape, and he did not offer it as the preferred line for establishing the location of the live thalweg. It serves to illustrate the crossing characteristics of the disputed area. The line proceeds irregularly along the right descending bank or middle of the river upstream from the point of the bend and then crosses the riverbed to the left descending bank and proceeds downstream.

Mr. Odom also placed a line on the surveys which was the locus of the points equidistant from 9-foot contour lines on the opposite sides of the river. The apparent rationale for this line is that a project has been authorized to maintain a 300-foot wide channel of water at least nine feet deep throughout this reach of the river. He did not depict the middle of a 300-foot wide channel because water of a depth greater than nine feet relative to the average low water plane was available throughout an expanse of this reach of the river far in excess of 300 feet, at least for years 1972 through 1982. Mr. Odom did not offer this line as a preferred sailing line, stating that he very much doubted that downstream traffic would follow a course along the line. The line does serve to illustrate a complicating factor in determining the locations of the live thalweg. If water that is deeper than nine feet can be characterized as "safe" for navigation because no dredging would be needed pursuant to

the project, then a wide avenue of "safe" water is available throughout the disputed area for all of years 1972 through 1982.

Mr. Odom's third line, which he did offer as the preferred sailing line/live thalweg, is the channel line depicted on Map No. 38 as transposed onto the hydrographic surveys by a photographic process that enlarged Map No. 38 to match the scale of the surveys. This line and Mr. Harrison's line do not coincide. Mr. Odom's transposed lines comport more nearly with the shape of channel lines as depicted on the editions of Map No. 38. Mr. Harrison's lines reflect his method of transposition as they are a series of straight lines drawn between reference points. The lack of coincidence between the two sets of lines is not material in the sense that each version of the transposed channel lines always passes well to the east of the bottom hole location of the well.

Little weight can be given to Mr. Odom's adoption of the channel line to represent the preferred sailing line/live thalweg. He admitted that he adopted the channel line because it is a sailing line established by competent people who are responsible for safe navigation on the river. He did not compare the line against data on the surveys and against more timely sailing directions. The evidence needed to make such comparisons is, however, before the Court.

Mr. Smith was the expert witness for Mississippi. He placed one line on each of the hydrographic surveys introduced into evidence in conjunction with his testimony and each such line reflects his opinion as to the location of the live boundary. Some care is needed in summarizing Mr. Smith's methodology.

Early in his testimony, Mr. Smith illustrated the manner in which a navigator would set and follow a course between the Gibson Light and the Giles Bend Cutoff Light. He stated that a navigator would take his tow past Gibson Light in the deep

water along the right descending bank and reorient himself at some point downstream from that light by reference to a bearing on the Giles Bend Cutoff Light. This use of the two lights for piloting this reach of the river he characterized as "filling in the marks." Then, at some point upstream from the Giles Bend Cutoff Light, the navigator would "break down" his tow by turning slightly to the right, or to the west, to pass the Giles Bend Cutoff Light with the tow pointed in the direction of the general flow of the river. The relationship of this description to the precise location of any of his live boundary lines remained unclear because he never gave a specific bearing on the Giles Bend Cutoff Light.

Later in his testimony, Mr. Smith stated that the live boundary is a function of three factors: the downstream course, the track of navigation, and the thalweg. As defined by him, the downstream course and the track of navigation are closely related, if not identical. The track of navigation can be established from navigational aids, such as lights and bulletins to mariners; these aids are put out for the downstream (not the upstream) course. By his definition, the thalweg is the line of deepest and swiftest water. He stated that the thalweg generally could be determined or "locked in" by looking to the soundings and contour lines on the hydrographic surveys. When it could not be so determined, the track of navigation could be "locked in" by referring to the navigation lights.

Apparently Mr. Smith never explicitly used the navigational aids to determine the track of navigation and establish the live boundary. He repeatedly referred to the locking in of the thalweg by reference to the data on the hydrographic surveys. On redirect, he was asked whether his live boundary lines fell within the "marks" relative to the navigation lights. He stated that he did not use the marks. He determined the live course according to the thalweg evident on the surveys. In short, Mr. Smith's methodology was to place the live boundary

along the line of deepest and swiftest water that he could discern from the soundings and contour lines on the surveys. This methodology was applied to all reaches of the stream, including the crossing.

V. The Years in Dispute

The live boundary lines placed on the surveys by Mr. Harrison and Mr. Odom lie to the east of the bottom hole location of the well throughout the period from 1972 to 1982. Mr. Smith's live boundary lines also lie to the east of the bottom hole location of the well from 1972 through 1974.

Mr. Smith's live boundary line placed on a survey dated February, 1974 lies 550 feet to the east of the bottom hole location. The boundary line that he placed on a survey dated March, 1975 (Ex. D-10) lies 100 feet to the west of the bottom hole location. By interpolation, he calculated that the boundary passed over the bottom hole in a westerly direction on January 11, 1975. His boundary line remains to the west of the bottom hole on all the surveys he presented up to the survey dated May, 1978.

On a survey dated May, 1977 (Ex. D-16), his boundary line lies 750 feet to the west of the bottom hole. He placed his boundary line 500 feet to the east of the bottom hole on the next survey he presented, which was dated May, 1978 (Ex. D-17). By interpolation, he calculated that the boundary passed over the bottom hole in an easterly direction on December 20, 1977.

Mr. Smith's boundary line remains to the east of the bottom hole until a survey dated November, 1981 (Ex. D-21). On that survey, he places the boundary 120 feet west of the bottom hole, nearly 300 feet to the west of where he placed it on a preceding survey dated March, 1980 (Ex. D-19). By

interpolation, he calculated that the boundary passed over the bottom hole in a westerly direction on April 10, 1981. He similarly calculated that the boundary passed over the bottom hole in an easterly direction on December 5, 1981.

Thus, Mr. Smith presents a migrating boundary line that shifts the jurisdictional location of the well from Louisiana to Mississippi, from Mississippi to Louisiana, from Louisiana to Mississippi and back again to Louisiana. The witnesses for Louisiana opined that the boundary line never shifted far enough west to change the jurisdictional location of the well. Thus, the parties are in material conflict with respect to years 1975, 1976, 1977 and 1981.

A. *The Boundary in 1975.* Three copies of a hydrographic survey dated February, 1974 were introduced into evidence in conjunction with the testimony of the expert witnesses. The version of the boundary line placed on a copy of the survey by each expert witness passes to the east of the bottom hole location of the well. Thus, each expert witness is of the opinion that the well remained within the State of Louisiana in 1974.

Three copies of a hydrographic survey dated April, 1975 also were introduced into evidence in conjunction with the testimony of the expert witnesses. Mr. Harrison placed on the survey (Ex. P-19), as he did on the 1974 survey, the channel line depicted on the 1974 edition of Map No. 38 and could see no reason to modify that channel line for use as the boundary. As in 1974, Mr. Harrison's version of the boundary line lies approximately 940 feet to the east of the bottom hole location of the well as measured perpendicularly from the boundary line to the bottom hole location.²

² The measurements stated herein for the distance from Mr. Harrison's and Mr. Odom's boundary lines to the bottom hole location were all made in this manner. For Mr. Smith, I took the distances written on his copies of the surveys and summarized at pages 435-437 of the transcript.

Mr. Odom also transposed onto the survey (Ex. P-65) the channel line depicted on Map No. 38. However, he apparently used the channel line from the 1975 edition of Map No. 38. The channel line adopted by Mr. Odom as the boundary line was approximately 990 feet to the east of the well³ in February, 1974 and approximately 675 feet to the east of the well in April, 1975. Thus, the boundary line as proposed by Mr. Odom migrated to the west between 1974 and 1975, but not enough to change the jurisdictional location of the well.

Mr. Smith proposes a significant migration of the boundary line to the west from 1974 to 1975. He places the boundary line 550 feet to the east of the well in 1974 and 150 feet to the west of the well in April, 1975. Thus, Mr. Smith shifts his boundary line 700 feet to the west relative to the well and thereby places the well in Mississippi.

The reasonableness of the proposed boundary lines must be weighed by reference to the data available on the hydrographic surveys. No Channel Reports were introduced in conjunction with the 1974 and 1975 surveys. The only navigational aids depicted on those surveys are the lights, and the position of the lights did not change from 1974 to 1975. In particular, the Gibson Light is on the Louisiana bank approximately $3\frac{1}{2}$ miles upstream from the well; the Giles Bend Cutoff Light is on the Mississippi bank approximately 400 feet downstream from the well and approximately one mile downstream from the concave or elbow-like point of the bend in the river. An inference as to the migration, or the absence of any substantial migration, of the boundary must be made by reference to the lights, the changing depths of water and the configuration of the riverbed as revealed by the surveys.

The characteristics of the disputed reach of the river in February, 1974 can be observed on Exhibits P-17, P-64 and D-

³ "Well" and "bottom hole location of the well" are used interchangeably herein.

9 and can be characterized in words in the following manner. The upstream trough of deep water extends to a point approximately one mile upstream from the well. It lies along the right descending bank and generally is 300 or more yards wide. The downstream trough of deep water lies along the left descending bank and is approximately 200 yards wide upstream from the well. Downstream from this point, the trough fans out over the next mile and one-half and eventually covers almost all of the riverbed. A portion of the riverbed along the left descending bank upstream from the bend lies less than 10 feet beneath the average low water plane and is bordered by an area of the riverbed that is 10 to 20 feet beneath the average low water plane. A portion of the riverbed less than 10 feet beneath the average low water plane extends out from the right descending bank in the area of the well and is bordered by a portion of the riverbed that is 10 to 20 feet beneath the average low water plane and under which the well lies. Within the crossing environment, a broad avenue of water 20 feet or more deep at average low water lies between the two troughs of deep water and the two areas of shallow water. Passage through the crossing anywhere within this avenue would result in downstream traffic passing to the east of the well.

A number of changes in the characteristics of the disputed reach of the river are evident from examination of the survey dated April, 1975 (Exhibits P-19, P-65, and D-11). The upstream trough of deep water narrows markedly at a point approximately $2\frac{1}{2}$ miles upstream from the well. Thereafter, the trough is a narrow strip that hugs the right descending bank for another mile. The downstream trough of deep water is not markedly changed, although it fans out more gradually. The broad avenue of water more than 20 feet deep between the two troughs of deep water present in 1974 is no longer present in April, 1975. One can traverse the crossing only by passing through water that would be less than 20 feet deep at low water.

Mr. Smith defined the nature of the crossing environment in April, 1975 by placing 15-foot contour lines on the survey, using the soundings found thereon (Ex. D-11). Areas within these contour lines would be covered by less than 15 feet of water relative to the average low water plane.

One such area lies along the left descending bank upstream from the point of the bend, extends out toward the middle of the river in the shape of a narrow stem, and then expands into the shape of a two-pronged fork approximately in the middle of the bend. The other such area extends out from the right descending bank in the area of the well.

The boundary line placed on the April, 1975 survey by Mr. Smith appears to be based on two factors, the location of the upstream trough of deep water and the location of the shallow water indicated by the 15-foot contour lines. As an indicator of the probable course of downstream traffic, Mr. Smith's boundary line presents several problems.

First, the line is not consistent with Mr. Smith's own testimony as to the manner in which a navigator would proceed between Gibson Light and the Giles Bend Cutoff Light. The line does not reflect an attempt to "fill in the marks" along a course determined by reference to the Giles Bend Cutoff Light. Upstream from the bend, Mr. Smith's line hugs the right descending bank so closely and for so long a distance that its heading bears almost no relationship to that light. Moreover, the line reflects no "breaking down" of the tow (that is, making a turn) upstream from the Giles Bend Light so that the tow is headed downstream by the time it passes the light.

The second problem relates to one of the apparent advantages of Mr. Smith's proposed boundary line. It lies in or near the deepest water available upstream from the bend. However, the relative locations of the two troughs of deep water precludes, absent an implausible sharp turn to the left, making such full use of the deepest available water both upstream and

downstream from the bend. Traffic passing along Mr. Smith's boundary line would fail to take advantage of the first 3,500 to 4,000 feet of the downstream trough of deep water. Thus, Mr. Smith's line cannot be justified on the basis that it is located in the deepest water. It is so located upstream from the bend, but it is not so located downstream.

Mr. Smith's emphasis on the deep water upstream apparently is a function of the location of the shallow water indicated by the 15-foot contour lines. As Mr. Smith's line departs from the trough of deep water, approximately one mile upstream from the well, the line passes through a narrow opening between the fork-like area of shallow water in the middle of the bend and the shallow water that extends out from the right descending bank. The opening is approximately 200 feet wide, and the water therein is 3 feet deeper than the water to either side.

Mr. Smith's proposed boundary line represents the only plausible course of downstream traffic that avoids the 15-foot water entirely. It also is the only plausible course that passes to the west of the well.

Nothing in the record indicates a necessity for avoiding the 15-foot contour areas entirely. The study gage data indicate very high water during this period and safe navigation was possible virtually anywhere within the crossing environment. Even if one infers the probable course of downstream traffic by reference to water depths relative to the average low water plane, water 15 feet deep apparently would be safe since the Corps of Engineers project for this reach of the river prescribes maintenance of a channel only 9 feet deep.

If the areas within the 15-foot contour lines need not be avoided entirely, then the data on the survey suggest an alternative course, one closely approximated by the channel line depicted on the 1975 edition of Map No. 38. A navigator following this course would bring his tow out of the upstream

trough of deep water at the point where the trough narrows markedly, approximately $2\frac{1}{2}$ miles upstream from the well. He would bring his tow through the crossing along a gradual arc generally in more than 15 feet of water and cross over the area within the 15-foot contour lines at only one point, approximately one mile upstream from the well, where that area is a very narrow stem and the water within it is 13 to 15 feet deep.

This alternative sailing line has a number of apparent advantages. It makes use of the Giles Bend Cutoff Light as an aid to navigation and generally comports with "filling in the marks" along a course determined by that line. It also reflects a gradual "breaking down" of the tow so that it points downstream as it passes the light and enters the trough of deep water. At that same location, a tow proceeding along Mr. Smith's route would still be "breaking down" and would skirt the shallow water along the right descending bank.

Considering all of the data on the survey, I infer that downstream traffic in the ordinary course probably followed the alternative sailing line described above, rather than the one proposed by Mr. Smith. This inference precludes placement of the live boundary to the west of the well in April, 1975.

Copies of the hydrographic survey dated September, 1975 also were introduced into evidence in conjunction with the testimony of the expert witnesses. The data on the survey indicate very little change in the characteristics of the crossing environment. Using the same methodology and considering the same factors as employed on the April, 1975 survey, Mr. Smith placed a boundary line on the September, 1975 survey (Ex. D-12). This boundary line presents the same problems as his earlier line.

Smith's September, 1975 line hugs the right descending bank in deep water upstream from the well and then threads the needle between two areas of shallow water defined by 15-foot contour lines. It is necessary to thread the needle to avoid

the shallow water because, as I read the second set of soundings upstream from the well, the 15-foot contour line on the left almost touches Mr. Smith's boundary line. As a result of aiming for this narrow opening between the two areas of shallow water, Mr. Smith's line passes 100 feet to the west of the well. It also passes over shallow water downstream from the well.

Once again, the channel line depicted on the 1975 edition of Map No. 38, and offered as the live boundary by Mr. Harrison (Ex. P-20) and Mr. Odom (Ex. P-66), closely approximated an alternative route depicted on the survey. This route does involve entry into shallow water approximately 2,500 feet upstream from the well and continuance within this shallow water for approximately 1,200 feet. However, the soundings indicate that the riverbed is flat in this area and the water would be 13 feet deep even at low water.

The alternative route has the same apparent advantages that it did in April, 1975. Considering all of the data on the survey, I infer that downstream traffic in the ordinary course probably followed the alternative route rather than the one proposed by Mr. Smith. This places the live boundary approximately 675 feet to the east of the well.

Based on all of the evidence in the record relevant to 1975, I find that the live boundary did not migrate over the well in a westerly direction during 1975, and at all times during that year the live boundary remained to the east of the well.

B. *The Boundary in 1976.* Three sets of hydrographic surveys were introduced into evidence in conjunction with the testimony of the expert witnesses. The surveys were dated April, July, and October, 1976.

The version of the live boundary placed on each survey by Mr. Smith (Exs. D-13, D-14, and D-15) reflects a straight-line course across the neck of Giles Bend Cutoff. The boundary lines so placed by Mr. Smith pass to the west of the well by 500 feet in April, 510 feet in July, and 480 feet in October.

Mr. Harrison transposed onto each survey (Exs. P-22, P-25, and P-27) the channel line depicted on the 1976 edition of Map No. 38 and could see no reason to modify this line for purposes of locating the live boundary. On each survey, the line passes to the east of the well by approximately 940 feet.

Mr. Odom also transposed onto each survey (Exs. P-67, P-68, and P-69) the channel line depicted on an unspecified edition of Map No. 38 and offered these lines as the live boundary. The lines pass to the east of the well by approximately 730 feet in April and July and by approximately 940 feet in October.

The reasonableness of these various versions of the live boundary can be evaluated by reference to the data on the surveys. In addition, a number of Channel Reports, in which the Coast Guard recommends a course through the disputed reach of the river, were introduced into evidence by Louisiana.

The survey for April (*e.g.*, Ex. P-22) indicates several changes in the river relative to 1975. The long, narrow trough of uninterrupted deep water upstream from the bend along the right descending bank has become a long, narrow pool surrounded by water 20 to 30 feet deep. An uninterrupted trough of deep water lies more toward the middle of the river and extends to a point two miles upstream from the well. The deep water downstream from the bend remains essentially unchanged. A broad expanse of water 10 to 20 feet deep lies between the two troughs of deep water and cannot be avoided by mariners. The crossing is otherwise wide open in the sense that the 10-foot contour lines lie very close to either bank. One small sand bar in the middle of the bend can be avoided easily by passing to either side.

Mr. Smith drew in two areas of shallow water defined by reference to 15-foot contour lines (Ex. D-13). One area extends out from the left descending bank upstream from the well. The other extends out from the right descending bank in

the area of the well. Mr. Smith shows his boundary line passing between these two areas.

As I read the soundings, the two areas of shallow water join approximately 1,000 feet upstream from the well.⁴ Thus, Mr. Smith's route would minimize, but not eliminate, crossing through the shallow water. The boundary lines proposed by Mr. Harrison and Mr. Odom, if followed by downstream traffic, would involve traversing a broader portion of the shallow water. However, the portion so traversed would be more than 10 feet deep at low water and almost 30 feet deep at the stage of the river indicated by the study gage data.

One advantage of a route along Mr. Smith's boundary line relates to the truism that the shortest distance between two points is a straight line. In addition, Mr. Smith's boundary line has the advantage of lying in the deepest water within the crossing environment, from a point approximately 1½ miles upstream from the well to a point 1,000 feet upstream from the well. However, this advantage can be gained only at the cost of disregarding several thousand feet of deeper water available upstream from the crossing as well as the first mile of deep water downstream from the bend. The deep water would tend to attract mariners to a route along the channel line depicted on the 1976 edition of Map No. 38, or east thereof.

The Channel Reports are inconclusive. The one nearest in time to the April survey was based on soundings taken on June 29 (Ex. P-24). It recommends no specific course for proceeding downstream from Gibson Light. This failure to state any

⁴ Most surveys that were introduced into evidence, including Exhibit D-13, are composites which join together two surveys for portions of the river upstream and downstream from Giles Bend. On Exhibit D-13, the upstream and downstream surveys indicate different figures for the average low water plane. It is not clear which figure should be used for purposes of drawing contour lines. Mr. Smith used the higher elevation indicated on the downstream survey, which has the effect of diminishing the area within the 15-foot contour lines.

specific bearing on the lights, along with the omission of any reference to Giles Bend Cutoff Light and an unusual reference to the Cowpen Island Light further downstream, indicated to mariners that the crossing area was wide open.

Given the characteristics of the crossing environment, Mr. Smith's boundary line is plausible as an indicator of the probable route of downstream traffic in the ordinary course. However, maximum use of deep water recommends a sailing line very similar to the one inferred for 1975. In addition, such a line would have allowed the mariner to keep his tow pointed down the river with no sharp turns and without encountering hazardous water within the crossing environment. I infer that the probable course of downstream traffic in April, 1976 lay along the channel line depicted on the 1976 edition of Map No. 38 or to the east thereof, and passed to the east of the well by approximately 1,000 feet.

The survey for July indicates very little change in the river, except that an avenue of water 20 to 30 feet deep is available within the crossing environment to the west of the well; Mr. Smith places his boundary line in the middle of this avenue (Ex. D-14). Thus, the location of the deepest water within the crossing environment recommends a course along Mr. Smith's boundary line. Once again, the location of the deep water troughs above and below the bend suggests a course along or to the east of the channel line depicted on the 1976 edition of Map No. 38. No hazards within the crossing environment preclude following either course.

Louisiana introduced into evidence a Channel Report based on soundings taken on July 8 (Ex. P-26). The Coast Guard therein recommends proceeding downstream from the Gibson Light toward a point 200 yards open, or to the right of, the Giles Bend Cutoff Light and then passing that light 200 yards open. The channel line offered by Mr. Harrison and Mr. Odom closely approximates this recommended course, with the

exception that it lies approximately 280 yards open on the Giles Bend Cutoff Light. Mr. Smith's boundary line bears virtually no relationship to the recommended course, as the line is directed at and passes a point 2,000 feet open on the light. Based on the survey and the Channel Report, I infer that downstream traffic in the ordinary course continued to be drawn toward the Mississippi bank by the location of the deep water and passed approximately 1,000 feet to the east of the well.

Essentially the same analysis and the same conclusions apply with respect to the October survey. The survey indicates little change in the river except for the absence of any uninterrupted avenue of water 20 to 30 feet deep within the crossing environment. A Channel Report based on soundings taken on October 6 (Ex. P-28) indicates no change in the course recommended by the Coast Guard.

The survey does indicate the location of a number of buoys in this reach of the river. When proceeding downstream, the mariner is to give the red buoys a wide berth on his left and the black buoys a wide berth on his right. A mariner proceeding along Mr. Smith's boundary line would nearly overrun the first black buoy and would have the second black buoy to the left of his tow as he passed that buoy. Mr. Smith asserted that the second buoy appeared to be off station. In responding to questions on cross-examination, he objected to the placement of the second buoy because it lay in the path of his boundary line, an objection which places the cart before the course. The evidence provided by the survey and the Channel Report supports the inference that downstream traffic continued to follow a course along or to the east of the channel line on Map No. 38 and passed approximately 1,000 feet to the east of the well. I find from all of the evidence that the probable route of downstream traffic in the ordinary course throughout 1976 passed to the east of the well.

C. *The Boundary in 1977.* One hydrographic survey, dated May, 1977 was introduced into evidence in conjunction

with the testimony of each of the expert witnesses. Mr. Harrison and Mr. Odom transposed onto the survey the channel line depicted on the 1977 edition of Map No. 38. As transposed by Mr. Harrison (Ex. P-29), the channel line passes to the east of the well by approximately 800 feet. As transposed by Mr. Odom (Ex. P-70), the channel line passes to the east of the well by approximately 730 feet. Mr. Smith's boundary line reflects a straight-line course across the neck of Giles Bend which passes to the west of the well by 750 feet (Ex. D-16).

I can find no evidence in the record to support the placement of Mr. Smith's boundary line. The upstream trough of deep water lies in the middle of the river and not along the right descending bank where Mr. Smith places his line. The deepest water available within the crossing environment lies consistently in the middle or eastern half of the river and not along the right descending bank. Mr. Smith places his boundary between two areas of shallow water defined by 15-foot contour lines. The contour lines may be misdrawn. *See* note 4, *supra*. At low water, the water would be less than 15 feet deep throughout almost the entire western two-thirds of the river, from the bend to the well, and Mr. Smith's boundary line lies in the middle of this shallow water. The downstream trough of deep water lies along the left descending bank and Mr. Smith's line, as a course for navigation, would make no use of the first mile of this deep water. A Channel Report introduced into evidence (Ex. P-31) recommends the same course as recommended in the 1976 reports. The 1977 channel line closely approximates this course. Mr. Smith's boundary line bears no relationship to the recommended course.

I find that downstream traffic in the ordinary course during 1977 passed to the east of the well by approximately 800 feet.

D. *The Boundary in 1981.* Although the expert witnesses do not agree on the precise location of the boundary for 1978-1980, they all agree that it lay to the east of the well. They

similarly agree as to the location of the boundary in 1982. Only 1981 remains in dispute.

Copies of a hydrographic survey dated April, 1981 were entered into evidence in conjunction with the testimony of the expert witnesses. Mr. Harrison transposed onto the survey the channel line depicted on the 1980 edition of Map No. 38 (Ex. P-46) and noted that the 1980 and 1981 editions did not appear to differ as to the location of the channel. He could see no reason to modify the channel line for purposes of locating the live boundary. This channel line passes to the east of the well by approximately 780 feet.

Mr. Odom transposed onto the survey the channel line depicted on an unspecified edition of Map No. 38 (Ex. P-74). This live channel line passes to the east of the well by approximately 729 feet.

The boundary line placed on the survey by Mr. Smith reflects an essentially straight-line course across the neck of Giles Bend (Ex. D-20). This boundary line passes directly over the well.

The reasonableness of these boundary lines can be evaluated by reference to the data on the survey. In addition, Louisiana introduced into evidence a Channel Report based on soundings taken on April 10, 1981 (Ex. P-47).

The soundings and contour lines on the survey indicate the presence of the upstream trough of deep water in the middle of the river, extending to a point approximately $1\frac{1}{4}$ miles upstream from the well. A separate pool of deep water lies along the right descending bank upstream from the well. The trough of deep water downstream from the bend remains essentially unchanged relative to its location and characteristics in earlier years. A broad avenue of water 20 to 30 feet deep lies within the crossing environment between the two troughs of deep water.

The location of the deep water upstream and downstream from the bend would tend to attract mariners to a course along or to the east of the channel lines transposed onto the survey by Mr. Harrison and Mr. Odom. This course would have the advantage of maximizing the use of the deep water troughs, shortening the crossing, and encountering no hazards within the crossing.

A course along Mr. Smith's boundary line also would encounter no hazards within the crossing environment. However, this course would fail to make use of substantial portions of the deep water troughs and thereby lengthen the crossing. The apparent rationale for so lengthening the crossing involves passage through the crossing environment in the deepest available water. The soundings on the survey indicate that a course along Mr. Smith's boundary line would provide little or no advantage in this respect.

The Channel Report recommends proceeding downstream from the Gibson Light toward a point 200 yards below, or downstream from, the Giles Bend Cutoff Light and passing 300 yards open on that light. The channel lines transposed onto the survey are consistent with the recommended course. Mr. Smith's boundary line bears almost no relationship to the recommended course.

Based on the evidence provided by the data on the survey and the Channel Report, I infer that downstream traffic in the ordinary course followed a route along or to the east of the channel lines transposed from Map No. 38 and passed to the east of the well by approximately 780 feet. The evidence does not support an inference that the downstream course, and the live boundary, migrated markedly to the west and passed over the well.

Copies of a hydrographic survey dated November, 1981 also were entered into evidence in conjunction with the testimony of the expert witnesses. Once again, Mr. Harrison trans-

posed onto the survey, and offered as the live boundary, the channel line from the 1980 edition of Map No. 38 (Ex. P-43). Mr. Odom also transposed onto the survey the same channel line that he transposed onto the April survey (Ex. P-75). Mr. Smith placed his version of the live boundary line onto the survey and this line passes to the west of the well by 120 feet (Ex. D-21).

The soundings and contour lines on the survey indicate little change in the river between April and November, except that a small sand bar lies 18 to 19 feet below the surface of the river at low water just upstream from the well. The sand bar can be avoided by passing either to the right or to the left as one proceeds downstream.

Once again, the relative advantage of a course along or to the east of the 1980 edition of the channel line would involve maximum use of the deep water troughs and shortening of the crossing. Within the crossing environment, Mr. Smith's boundary line would offer the advantage of deeper water only for a portion of the river extending from $1\frac{1}{4}$ to $\frac{3}{4}$ miles upstream from the well. None of the proposed boundary lines pass over the small sand bar mentioned above.

A Channel Report based on soundings taken on November 12 (Ex. P-45) recommends the same course as that recommended in the earlier Channel Report issued in April. The channel lines transposed onto the survey by Mr. Harrison and Mr. Odom closely approximate this course. Mr. Smith's boundary line bears very little relationship to the recommended course.

Based on the data on the survey and on the Channel Report, I infer that downstream traffic in the ordinary course followed a route along or to the east of the channel lines transposed onto the survey by Mr. Harrison and Mr. Odom and passed to the east of the well by approximately 780 feet. I find that throughout 1981 the probable course of downstream traffic, and the live boundary, remained to the east of the well.

VI. Fixing A Boundary

In oral argument on the Draft Report and thereafter in a brief, Mississippi requested that the Master draw a boundary for each of the years 1972-1982. Specifically, the Mississippi brief "urges the Special Master . . . to precisely determine, by geodetic coordinates and for each hydrograph admitted into evidence, the location of the interstate boundary between Mile 367 and Mile 370, including the portion thereof, if any, consisting of the 'dead thalweg' in Giles Bend Cut-Off." Supplemental Post-Trial Brief in Behalf of Defendants, pp. 13-14. Mississippi advances four reasons for the request:

1. Special Masters and the Court have drawn boundaries in most other cases.
2. Westward movement of the boundary affects the size of production units, with those on the Mississippi side growing larger as the boundary moves west.
3. Fixing the boundaries for 1972-1982 would aid in fixing boundaries in the future, if litigation should arise.
4. The Court will be in a better position to evaluate this report if the Special Master draws his own sailing line on the hydrographs.

Louisiana does not object "to the Special Master, if he so desires, placing his version of the boundary upon a hydrographic chart or charts. . . . [H]owever, it would seem to be a meaningless and useless exercise in that any line placed thereon has no future effect because such a boundary is considered, by all concerned, to be 'live.'"

I respectfully decline to draw my own version of the boundary line for each of the 11 years for which hydrographs were admitted in evidence. The issue in this case, from the time it was first filed in state court, and as pled and tried in this Court, is the location of the boundary in relation to the bottom hole of Louisiana State Well No. 3. I have found as fact that the

boundary was never west of the well in the disputed years. That finding, if confirmed by the Court, disposes of the controversy. It therefore seems to me to be wholly gratuitous and improper to draw a boundary line for seven undisputed years and for four years in which the well was found to be on the Louisiana side. To test this conclusion, one can ask this question: if Louisiana State Well No. 3 did not exist and if Mississippi asked leave of this Court to file an action in the original jurisdiction to determine the boundary between Mile 367 and Mile 370 on the Mississippi River for the years 1972-1982, would the Court grant the leave? I think not, for so far as appears, absolutely nothing of consequence would turn on the decision. While I found no case directly in point, the Court has always been careful, especially in interstate litigation in its original jurisdiction, to require a genuine controversy with the threat of immediate harm before exercising its jurisdiction. See *Arizona v. California*, 283 U.S. 423 (1931), at 462-64. The Court has made it plain that it will not give advisory opinions or render decisions in moot cases. *Preiser v. Newkirk*, 422 U.S. 395 (1975); *North Carolina v. Rice*, 404 U.S. 244 (1971); *United States v. Alaska Steamship Co.*, 253 U.S. 113 (1920). The exception to the mootness doctrine illustrated by *Southern Pacific Terminal Co. v. I.C.C.*, 219 U.S. 498 (1911) does not apply in this case, for a determination of the boundary for the years 1972-1982 does not forestall a controversy in future years.

Mississippi's four reasons for granting the relief requested are not persuasive that a controversy exists apart from the location of the well in relation to the boundary. While, as Mississippi asserts, boundaries have been drawn in many other cases, in most of them, as Mississippi concedes, the boundary became fixed because the change was avulsive. In such cases, the decree is meaningful and forward looking, because it determines permanent sovereignty over dry land. In this case, the proposed decree would determine where the boundary was, but not where it is now or will be in the future. As the foregoing

review of the evidence demonstrates, the thalweg changes constantly; wherever it was between 1972-1982, it is not there now except by pure chance. In every case cited by Mississippi some consequence followed from a boundary determination. For example, in *Louisiana v. Mississippi*, 384 U.S. 24 (1966), a case on which Mississippi places great reliance, the issue again was the location of the boundary in relation to a producing well. The parties stipulated the 1964 boundary, but it was necessary to go back in time and locate the boundary in 1954, when the well was completed, and in the years thereafter. Since there were no surveys after 1952, the Master resolved the issue by fixing a boundary in 1952 and interpolating the location of the boundary in relation to the well annually until 1964, using a constant rate of change in the calculation. Thus, it was convenient, though perhaps not necessary, for him to specify the location of the boundary in relation to the well for each year in question. Since the master did find that the boundary changed so as to move the well from Louisiana to Mississippi, it was essential to determine when that change occurred. In this case, I have found the well to be located at all relevant times in Louisiana. Accordingly, it is moot where the boundary may have been located from 1972-1982.

Mississippi asserts that the size of drilling units changes with changes in the boundary. That may be true, but Mississippi does not say why it matters, and I doubt that it does. Until the boundary moves far enough west to place the well in Mississippi, that state would seem to lack power to tax or regulate the flow of oil. If Mississippi claims those powers when the well is outside its territorial limits, it has not said so.

Mississippi also claims that fixing the boundaries for each of 11 years would somehow aid the Court in future litigation. I do not see how. The parties agreed that the thalweg was moving easterly in late 1981 and early 1982. But in 1983 or some later year it could move back to the west. Either state desiring an adjudication in some future year will present its case

as the evidence was presented here: it will seek to prove the sailing line for the period of time in question. The exact location of the line in 1982 will have no bearing on the evidence to be produced in the future.

Lastly, Mississippi argues that the Court's review of this Report will be aided by my drawing of a boundary. That is for the Court to judge, but I am doubtful. The issue addressed was whether the live thalweg ever passed to the west of the well in the years in dispute. I am unpersuaded by the evidence adduced by Mississippi that it did; I am persuaded by Louisiana's evidence that the thalweg was at all relevant times east of the well. Beyond that, I did not consider where the boundary might have been located, since in my view it makes no difference. Nothing advanced by Mississippi convinces me otherwise.

VII. Conclusion

I conclude that the thalweg of the Mississippi River in the disputed area is the boundary between the State of Louisiana and the State of Mississippi and that the ordinary course of traffic on the river defines the thalweg. Specifically, the thalweg is the track ordinarily taken by boats and barges in their course downstream.

I find that in the disputed years — 1975, 1976, 1977 and 1981 — the thalweg of the river was never west of the bottom hole location of State of Louisiana Well No. 3 and that, accordingly, the well was throughout those years located in the State of Louisiana.

I recommend a decree, if one be needed, adjudging that from January, 1972 until March, 1982 State of Louisiana Well No. 3 was at all times located within the State of Louisiana.

Denver, Colorado
June 15, 1983

Respectfully submitted,

CHARLES J. MEYERS
Special Master

APPENDIX A

IN THE SUPREME COURT OF THE UNITED STATES

NO. 86, ORIGINAL

STATE OF LOUISIANA,

Plaintiff,

vs.

STATE OF MISSISSIPPI, ET AL.

Defendants.

**MOTION OF CHESLEY PRUET, ET AL.
FOR LEAVE TO INTERVENE**

OPINION

In this original action before the Court, commenced by the State of Louisiana against the State of Mississippi and Avery B. Dille, Jr., a Mississippi landowner, the principal issue as defined by the pleadings relates to the boundary between the two States, which Mississippi alleges has moved westward by virtue of a change in the course of the Mississippi River. Because of this alleged change in the boundary, a parcel of oil-producing land that the parties concede was once located in Louisiana may now be located in Mississippi, with the result that Louisiana would no longer have the power to regulate and collect taxes on the land and would no longer be entitled to royalty payments under the oil and gas lease it executed when it was the undisputed owner of the land.

Before Louisiana filed this action, Mr. Dille had filed an action in a Mississippi state court against Louisiana and a number of parties with mineral claims to the disputed parcel. Some of those claimants, defendants in the court action, are Movants for Leave to Intervene here. The state court action was

removed to the U. S. District Court for the Southern District of Mississippi, and the judge stayed the action pending the outcome of this suit.

The Movants assert mineral rights derived from the State of Louisiana under the oil and gas lease and claim that those rights are in jeopardy if the boundary has moved. Mr. Dille may have title to the land if the boundary has moved, and both he and the State of Mississippi may have monetary claims against Movants under those circumstances. Thus, the Movants are concerned with two issues: the title to the disputed land and the relationship of the several parties if the boundary has moved and Mr. Dille is now the owner of the land. The first issue is the boundary question, which is the issue Louisiana and Mississippi wish to litigate in this case. The second issue is the accounting for past revenues if title to the land has passed from Louisiana and its lessee to Mr. Dille. Mississippi, in its Memorandum in Opposition to the Motion, has made clear its opposition to the adjudication of the second issue in this proceeding. Nevertheless, Movants argue that efficiency will be served by resolving all issues arising from the boundary dispute in one adjudication.

From the limited perspective of this case only, the argument may have some merit, but from the broader perspective of the duties and responsibilities of the United States Supreme Court, and mindful of its heavy case load and its limited resources, the argument must fail. The Court has repeatedly said that its original jurisdiction should be invoked sparingly and the issues adjudicated closely confined to interstate disputes. *New Jersey v. New York*, 345 U.S. 309 (1953); *Kentucky v. Indiana*, 281 U.S. 163 (1930). See *Utah v. United States*, 394 U.S. 89 (1969).

Intervention of private parties is discouraged. They are permitted to join the litigation only when they have some special interest that will not be adequately protected by the States and other parties already joined in the litigation. *New*

Jersey v. New York, supra. Thus, the doctrine that each State represents its citizens *parens patriae* is, at least in part, a means of confining litigation that otherwise could become unmanageable if every affected party were permitted to participate. *Kentucky v. Indiana, supra.*

Movants cite two cases as justifying the intervention, *Texas v. New Jersey*, 379 U.S. 674 (1965) and *Texas v. Florida*, 306 U.S. 398 (1939). Neither case is apposite. In the first, Texas sued New Jersey, Pennsylvania and the Sun Oil Co. to determine which state had the right of escheat to debts owed by Sun to missing creditors. Florida was allowed to intervene to assert its escheat claim, but no issue was raised as to intervention by private parties. *Texas v. Florida* was similar; suit was brought in the Court's original jurisdiction by one state against other states to determine the domicile of decedent for purposes of collecting inheritance taxes. Intervention by private parties was not an issue.

The threshold issue in this case is the boundary between the two States. If the boundary has moved, Louisiana has lost sovereignty over the disputed parcel, and may also have lost its title to the land. If Louisiana's title fails, so does the derivative title of Movants. Louisiana has a strong incentive to represent fully its interests in the land, and thereby also to represent fully the interests of the Movants. They have no independent or different interest from Louisiana in the boundary issue. The circumstances are accordingly appropriate for the application of the *parens patriae* doctrine, for in the absence of differing, special or conflicting interests, private parties are adequately represented by the State in interstate litigation in the original jurisdiction of the Supreme Court. Since the Movants' presence would not afford them added, needed protection nor provide the Court with added, needed assistance in resolving the boundary issue, their intervention on that issue should be denied.

On the subsidiary issue of an accounting, the interests of the Movants may deviate from those of Louisiana and the defendants, but that is a reason for denying intervention, not granting it. As Mississippi suggests in its Memorandum of Opposition, no good reason appears for that State to be a party to a litigation between Louisiana as an oil and gas lessor and its lessee for an accounting when the lessor's title fails. And as Mississippi further points out, Louisiana's title may not fail, and an accounting may not be required, since she may prevail on the ultimate question of the location of the boundary. But if the defendants prevail and an accounting becomes necessary, that proceeding, which does not involve a controversy between States, should be pursued in another tribunal, one candidate being the Federal District Court for the Southern District of Mississippi, where an action involving this subject matter is now pending, subject to a stay until the disposition of this case. If the Eleventh Amendment poses problems there, it poses the same problems here.

The Motion for Leave to Intervene is denied because the proper issue for this Court to resolve is the location of the boundary between the State of Louisiana and the State of Mississippi, because the accounting issue may not arise; and because, if it does, it should not be adjudicated in the original jurisdiction of the United States Supreme Court.

Denver, Colorado this 3rd day of September, 1982.

CHARLES J. MEYERS,
Special Master

5a

IN THE SUPREME COURT OF THE UNITED STATES

NO. 86, ORIGINAL

STATE OF LOUISIANA,

Plaintiff,

vs.

STATE OF MISSISSIPPI, ET AL.

Defendants.

ORDER

It is hereby ordered that the Motion for Leave to Intervene filed by Chesley Pruet, Robert Mosbacher, R. E. Williams, Estate of Bruce Sciscoe, deceased, Pruet & Hughes Company, and Bates Oil Corporation be denied.

Denver, Colorado this 3rd day of September, 1982

CHARLES J. MEYERS,
Special Master

AUG 20 1983

ALEXANDER L. STEVAS,
CLERK

No. 86, Original

In the Supreme Court of the United States**October Term, 1982****STATE OF LOUISIANA,***Plaintiff,***vs.****STATE OF MISSISSIPPI, ET AL.,***Defendants.*

**EXCEPTIONS TO THE REPORT
OF THE SPECIAL MASTER**

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No. 86, Original
In the Supreme Court of the United States

October Term, 1982

STATE OF LOUISIANA,

Plaintiff,

vs.

STATE OF MISSISSIPPI, ET AL.,

Defendants.

**EXCEPTIONS TO THE REPORT
OF THE SPECIAL MASTER**

I.

**EXCEPTIONS TO THE REPORT OF THE
SPECIAL MASTER**

The State of Mississippi excepts to the Report Of The Special Master now before this Court in the following particulars:

A. The Special Master erred in finding as fact that at all times relevant to these proceedings the live thalweg of the Mississippi River in the area in dispute, which constitutes the Louisiana-Mississippi State boundary, lay to the east of the bottom hole location of the producing oil well in issue.

B. The Special Master erred in refusing to recommend, by precise geodetic coordinates, a geographical locus of the live thalweg (State boundary) of the Mississippi River for the entire reach of the river in dispute, during each of the relevant years, 1972 to date.

II.

ARGUMENT**A. Statement of the Case**

This is an original action filed by the State of Louisiana against the State of Mississippi to resolve a dispute as to the true boundary line between these States in a disputed reach of the Mississippi River just north of Natchez, Mississippi, as determined by the changing location of the thalweg of the river in the year 1972 and thereafter. The controversy arose originally from a claim by Mississippi riparian landowners, A. B. Dille, Jr., Henry W. Dille, and Richard T. Dille, that they were entitled to the royalties from an oil well directionally drilled in 1972 from a surface location on their Mississippi lands to a bottom hole location lying under the bed of the Mississippi River. When completed as a producing well, the bottom hole location (the "well location" or the "well") was on the Louisiana side of the interstate boundary. Subsequent to completion of the well, the thalweg migrated in an erratic manner. Mississippi claims that during some of the time span between completion of the well and trial of this cause, the thalweg (and consequently the State boundary) lay to the west of the well and at other times it lay to the east thereof but sufficiently close to result in the draining of oil from Mississippi lands.

The well was drilled under the terms of a lease granted by the State of Louisiana. All royalties and severance taxes, up to the time when suit was originally filed, have been paid by the operators of the well to the State of Louisiana. The Dilles filed suit in Chancery Court of Adams County, Mississippi, against the operators and the State of Louisiana, alleging that the well was either in the State of Mississippi or was draining oil from their

Mississippi lands, and asked for an accounting of and payment for the oil produced. This initial litigation was removed from State Court to the United States District Court, Southern District of Mississippi, by the operators and the State of Louisiana. Louisiana then filed this original action against the State of Mississippi and the Dilles. On joint motion of all parties to the lower court proceedings, the district court litigation was stayed.

The Court appointed the Honorable Charles J. Meyers, a member of this Court, Special Master in this cause, conferring upon him authority to conduct a hearing and to make recommendations to this Court. A trial was held in New Orleans, Louisiana, in September, 1982, and the Special Master has now filed with this Court his final report (hereinafter MR).

While acknowledging that this litigation is a "boundary dispute" between the States of Louisiana and Mississippi, the Master in his report to this Court does not recommend any specific geographic locus of the State boundary in question for any given point in time. Rather, the Special Master simply recommends, at page 34 of his Report, a decree adjudicating that at all relevant times "the thalweg of the river was never west of the bottom hole location of State of Louisiana Well No. 3 and that, accordingly, the well was throughout those years in the State of Louisiana". Thus, rather than describing an actual State boundary traversing the entire four-mile reach of the Mississippi River acknowledged to be in dispute here, the Master has contented himself with determining the precise location of only one point on that boundary—the point of intersection of an east-west line drawn from the exact location of the bottom hole of the well. The Special Master having then concluded that he would do no more than determine the State in which the well was located during the relevant times in issue, his recommenda-

tions to this Court are ultimately framed in terms of ownership of the well, alone, rather than a determination by geodetic coordinates of the locus of the interstate boundary in the area in dispute.

This matter now comes before this Court on Exceptions of the State of Mississippi to the Report Of The Special Master.

B. The Applicable Law

It appears from the trial briefs¹ filed with the Special Master that there seems to be no serious disagreement between Mississippi and Louisiana as to the law of the case. Therefore, discussion about the legal principles to be used in this case, as developed by the several major cases decided heretofore, need not be labored here. In our view, no better or succinct exposition of the law of the thalweg may be offered here than that of Judge Marvin Jones, Special Master in *State of Louisiana v. State of Mississippi*, 384 U.S. 24 (1966), found at page 12, et seq., of his report, as follows:

When a navigable river forms the boundary between two states, the live thalweg or middle of the main navigable channel, with certain exceptions, is the true boundary line. This general rule is well established by a long line of decisions in this Court. To cite a few:

Iowa v. Illinois, 147 U.S. 1

Louisiana v. Mississippi, 202 U.S. 1

Arkansas v. Tennessee, 246 U.S. 158

New Jersey v. Delaware, 291 U.S. 361

1. The pre-trial, post-trial, and supplemental post-trial briefs of both Louisiana and Mississippi, as well as transcript (TR) of the trial testimony have been lodged with the Clerk for reference in conjunction with these exceptions to avoid unnecessary repetition of material already presented to the Court through the Special Master.

The basis for this rule is the common interest of affected states in the navigation conducted on any stream forming the boundaries between such states.

If the dividing line were to be placed in the centre of the stream rather than in the centre of the channel, the whole track of navigation might be thrown within the territory of one state to the exclusion of the other. (Justice Cardozo in *New Jersey v. Delaware*, *supra*, at 380.)

The thalweg is the middle of the main navigable channel. This is normally the principal course taken by boats and is not necessarily the deepest channel.

Iowa v. Illinois, 147 U.S. 1

Louisiana v. Mississippi, 202 U.S. 1

Arkansas v. Mississippi, 250 U.S. 39

Minnesota v. Wisconsin, 252 U.S. 273

Arkansas v. Tennessee, 269 U.S. 152

New Jersey v. Delaware, 291 U.S. 361

The landmark decision establishing this definition of thalweg is *Iowa v. Illinois*, *supra*, wherein Justice Field traced the history of boundary and thalweg through the many treatises on International Law, using such definitions as the middle of: the channel, the main channel, the navigable channel, the main navigable channel, the deepest channel, the principal channel, and the channel usually followed. All subsequent decisions have followed *Iowa v. Illinois* in using the "track taken by the boats" as the live thalweg or boundary between states bordering on navigable rivers.

Since the optimum course for vessels is one requiring a minimum of rudder and speed changes, their track

will not always coincide with a line directly connecting the deepest portions of the stream. This is especially true in river crossings where no distinct deep water channel exists. On occasion there may even be several possible routes or channels. When this occurs, the solution of boundary is as set forth in *Iowa v. Illinois*, *supra*, at 13:

Thus the jurisdiction of each State extends to the thread of the stream, that is, to the "mid-channel," and, if there be several channels, to the middle of the principal one, or, rather, the one usually followed.

The Court followed this rule in *Minnesota v. Wisconsin* when the deep channel was along the shore and the boats used a shorter and more preferable course down the middle of the river. When determining the thalweg

(a)bsolute accuracy is not (always) attainable. A degree of certainty that is reasonable as a practical matter, having regard to the circumstances, is all that is required. (*Arkansas v. Tennessee*, 269 U.S. 152, 157, in a thalweg case.)

When by natural, gradual and more or less imperceptible processes of erosion and accretion the thalweg changes, the boundary follows the stream and remains along this varying center of the channel.

New Orleans v. United States, 12 U.S. (10 Pet.) 292

County of St. Clair v. Lovington, 90 U.S. (23 Wall.)

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Nebraska v. Iowa, 143 U.S. 359

Missouri v. Nebraska, 196 U.S. 23

Arkansas v. Tennessee, 246 U.S. 158

Kansas v. Missouri, 322 U.S. 213.

Mississippi generally concurs with the Special Master's analysis of the applicable law in his report. Of particular note is the passage in the closing paragraph of the section of the Report dealing with the applicable law, on pages 6-7, as follows:

. . . The ultimate concern of the Court in applying the thalweg doctrine lies in identifying *the actual or probable downstream course of river traffic*. In the present case, *the boundary line in the disputed area* must be determined by reference to evidence of *the course commonly taken downstream by vessels in navigating that reach of the river*. The evidence presented by the parties must be weighed in terms of its value for making the necessary inference as to *the ordinary course of downstream traffic on the river*.
 . . . (Emphasis added)

The significance of the Master's own words, drawn from and clearly consistent with the several prior cases decided by this Court and cited by Judge Jones quoted earlier, is that nowhere do we find this Court insisting upon a determination of the "most" safe or "least" perilous channel, or any other similar terminology. The Master correctly understands that the law of the thalweg has always been, and remains, rooted in the policy of providing equal access to navigation. The movement of tonnage down the Mississippi River is business—big business—expensive business. That's why it is so important for this Court to ever keep in mind the plain truth that mariners on the Mississippi River, while constantly vigilant to avoid the perils of the river as may endanger their craft and cargo, ply the sinuous bends of the Mississippi in such a way as to keep their overhead expenses, as well as the costs charged to their customers, as reasonable as possible. With this in mind, river pilots always have

to maneuver their tows as *efficiently* as possible through sharp bendways so as to minimize fuel consumption and time of travel. Even where available, leisurely pathways commonly taken by pleasure craft must be eschewed by pilots. The economics of towboat operations will not tolerate otherwise.

These simple facts of life are critical to an evaluation of the manner in which the Special Master applied the law of the thalweg to the evidence adduced at the trial of this case. As will be shown hereinafter, the Special Master, through artful use of logic and disregarding many years of experience supporting certain expert testimony before him, has reached conclusions which do not comport with the commonsensical facts surrounding the movement of cargo up and down the Mississippi River.

Finally, the Master asserts on page 4 of this Report that "the fixing of a permanent boundary on account of avulsive activity, as an exception to the thalweg rule, has no application in this proceeding". This assertion is bolstered by the remarks in footnote 1, page 4 of the Master's Report which recite that "the sole evidence before the Court relates to the location of the live thalweg in the disputed area from 1972 through 1982". Mississippi respectfully submits that both of these general statements are only partially true.

As will be developed further hereinafter, Mississippi (and Louisiana, also, until the Special Master began to hint that he did not want to prescribe a specific State boundary for the entire reach of the River in dispute) submits that the case requires an ultimate establishment of an actual boundary line, by geodetic coordinates, in this case inasmuch as a portion of the area "in dispute", as clearly shown on the exhibits filed by the State of Louisiana with its Complaint, involves the connection of

the live, migrating thalweg of the main channel of the River with the fixed, dead thalweg in Giles Bend Cut-Off occasioned by the avulsive cut-off of Giles Bend by the Corps of Engineers in the 1930's. Mississippi heretofore fully briefed the law of avulsion, before the Special Master, and specifically addressed the exception to the general rule which provides that a State boundary fixed by avulsive movement remains unchanged unless and until the migrating live thalweg returns to, and reoccupies, its former channel. *Nebraska v. Iowa*, 143 U.S. 359 (1891). Mississippi also presented ample evidence through Mr. Smith of how this rule applies to the case at bar. Louisiana neither specifically briefed the point of law nor offered any evidence directly on the question. The exhibits of Louisiana did, however, specifically show their contentions regarding the location of the 1964 "dead" thalweg in Giles Bend Cut-Off, but no effort was made by Louisiana to tie together this boundary with the migrating boundary that even Louisiana established has moved to the west of the 1964 location.

Therefore, Mississippi forcefully submits that the law of avulsion is, indeed, involved in this case, to the extent that the migrating live boundary in the main channel of the Mississippi River cannot have a hiatus with the "dead" 1964 Louisiana-Mississippi State boundary now fixed in Giles Bend Cut-Off. The State boundary must be continuous. Therefore, in finalizing the location of the State boundary in this cause, the Court must not only consider this particular exception to the law of avulsion, but also the evidence offered regarding this aspect of the case.

C. Treatment of Expert Testimony

In its brief submitted to the Special Master after the draft report was circulated for review, Mississippi dealt

at great length with the qualifications of the three expert witnesses who testified at the trial. While we generally urge the Court to very carefully study the material in Mississippi's post-trial briefs on this point filed with the Special Master, a few remarks are certainly appropriate here.

First, Mississippi does not and will not contend that either Mr. Harrison or Mr. Odom, the experts offered by Louisiana, are not capable engineers in their respective disciplines. Moreover, Mississippi not only acknowledges but defers to the experience of these men in their professional work regarding certain particular aspects of rivers and activities associated therewith. However, even many years of experience in a generalized engineering practice infrequently involving the actions of rivers, lakes, and even marine environments doth not a potamologist make.

The Special Master notes on page 7 of his Report that Mr. Austin Smith, the expert offered by Mississippi, "has appeared as an expert witness in a number of boundary cases in which the thalweg doctrine applied". Even now, it is apparent that the Special Master avoids recognizing the plain fact that Mr. Smith was offered by Mississippi as an expert in the field of potamology because of several decades of specific experience and his widely recognized knowledge and abilities in this area. Mr. Smith was not offered merely because he has testified in a number of earlier cases involving the establishment of interstate boundaries in major rivers using the thalweg doctrine. The only reason Mr. Smith testified in these earlier cases is because of his expertise in the field.

The specific manner in which the Special Master dealt with the testimony of Mr. Smith requires careful attention here, particularly in view of the fact that Mr. Smith has spent over fifty (50) years of his professional

career working in every phase of river engineering, navigation, dredging, mapping, and construction relative to the Mississippi River and its tributaries. The Master's obvious failure to fully understand the testimony of Mr. Smith is critical to the Court's disposition of our Exceptions To The Special Master's Report.

Whereas the witnesses for Louisiana ultimately relied almost entirely upon the depiction of a generalized "sailing line" marked in red on certain flood control and navigation maps of the Mississippi River periodically published by one branch of the Mississippi River Commission formerly headed by Mr. Smith, the determinations of the thalweg or live boundary made by Mr. Smith resulted from use of all of the raw data depicted upon the meticulously prepared Corps of Engineers hydrographic surveys of the reach of the river in question which were introduced into evidence.

For some reason, the Special Master deduced from Mr. Smith's testimony that he did not use the navigation aids in determining his live boundary:

Apparently Mr. Smith never explicitly used the navigational aids to determine the track of navigation and establish the live boundary. He repeatedly referred to the locking in of the thalweg by reference to the data on the hydrographic surveys. On re-direct, he was asked whether his live boundary lines fell within the "marks" relative to the navigation lights. He stated that he did not use the marks. He determined the live course according to the thalweg evident on the surveys. In short, Mr. Smith's methodology was to place a live boundary along the line of deepest and swiftest water that he could discern from the soundings and contour lines on the surveys. This methodology was applied to all reaches of the stream, including the crossing. (MR-14)

We submit that this is a strained interpretation of Mr. Smith's testimony. Mr. Smith used all of the data afforded by the exhibits, including the navigation data. He testified:

"Q. How did you go about determining the locus of that (State) boundary, Mr. Smith?

A. I determined that on the basis of the thalweg and the track of navigation.

Q. How did you determine the track of navigation, what aids did you use and how did you employ them?

A. I had the lights, the lights were on the map, and I had the benefit of the Coast Guard directions. I might say I didn't have any Coast Guard directions for that survey." (Speaking of Exhibit D-4, being the 1972 hydrographic survey) (TR-351)

Again, speaking of his locating the track of navigation or the State line (he frequently used the phrase "lock it in" or "locking" it in) Smith testified, still with reference to the 1972 survey:

"(W)here we were not able to lock it in with the bed contours we were able to lock the track of navigation in with the navigation lights." (TR-352)

Smith then testified at some length on how one uses navigation lights in determining the track of navigation, using Plaintiff's Exhibit 24, which is the July 2, 1976 hydrographic survey, as well as channel reports. (TR-352)

At TR-355 Mr. Smith gave a graphic description of how a river pilot uses the lights in navigating, using passing lights and crossing lights and the difference between "running on" and "running open".

Mr. Odom in his testimony, made no reference to running the lights at all. Mr. Harrison, in his testimony, interprets the phrase "running open on Gibson Light 600 feet" as meaning that the tow is brought within 600 feet of the bank at Gibson Light. We respectfully submit that the Special Master is somewhat confused on this point when, on page 13 of his Report in analyzing the testimony of Smith, the Special Master refers to Smith's "filling in the marks" and his testimony that the navigator would "break down" his tow, but then concludes, "The relationship of this description to the precise location of any of his live boundary lines remained unclear because he never gave a specific bearing on the Giles Bend Cut-Off Light."

At trial, Smith used a ruler to demonstrate how a navigator would run from Gibson Light to Giles Bend Light. Smith testified that the navigator would bring his tow in on Hole in the Wall Light (which is upstream from Gibson Light) and that he would then "shape up" down the right descending bank and as he passed Gibson Light he would run "on" Gibson Light (he obviously meant Giles Bend Light), which means "he's line-of-sight between the two, he follows the line of sight between the two lights, so he's running from light to light . . . and at this point the man running the tow is going to begin to break down the tow and he's going to follow the current, so I broke—I had the pilot break his tow down, begin to point his tow to the cut-off when he passed this line." (TR-356)

Mr. Smith's sailing line superimposed on Exhibit D-4, the 1972 hydrograph, depicts clearly the course that the tow takes from Gibson Light toward Giles Bend Light and the point in the river where the tow "breaks down" and leaves the "line-of-sight" course and proceeds toward the middle of Giles Bend Cut-Off. There is no need for the

tow, or Mr. Smith, to have any "specific bearing on the Giles Bend Cut-Off Light". The tow is in perfectly safe water and has taken the shortest and fastest route downstream.

Continuing at TR-356, Smith testified:

"Now, if he's running open on Gibson Light, say 600 feet, then he's running to a point 600 feet out in the river, and he's going to be running and he comes down; this is what's called filling the marks."

In other words, to "fill the marks" the pilot positions his tow proceeding on a "line-of-sight" course between Gibson Light and a point ("mark") 600 feet off-shore from Giles Bend Light. Looking forward, the pilot can see his "mark"; looking to the rear, he will see Gibson Light ("mark") and will be running on a course between the two "marks".

In running the marks, if the pilot runs 600 feet "open", he would not take his tow to a point 600 feet out from the river bank, but rather would run to a "mark" which is 600 feet out from the bank and then break his tow down at such point between the marks as is best suited for navigation through Giles Bend Cut-Off. With deference, we do not believe that the Special Master ever grasped this concept.

When Mississippi reached the point of introducing Exhibit D-5 (TR-361) the Special Master seemed to indicate a desire to speed up the trial.

"THE SPECIAL MASTER:

It will be received. Can these be treated the same way as we did this morning? Or do you say they are different?"

Thereafter, deferring to the Master's request, Mississippi did not again repeat all of the various steps and explanations used by Mr. Smith in arriving at his determination of the line of navigation, rather he was asked:

"Q. And putting this line on D-7 you followed the same methodology as in the other exhibits?

A. Yes, sir. This particular line is in line with the thalweg and with the track of navigation at the time of that survey." (TR-365)

After a short intermission, beginning at TR-368, the following transpired:

"THE SPECIAL MASTER:

Before we go on with D-8 I want to get straight in my mind, fundamentally I'm not sure where he gets that line, whether it's a sailing line as he would do it or whether it's the deepest part of the channel or whether it's a combination of the deepest part of the channel, the currents and how you sail a line of barges. It's not clear. I think I know the components. I think he laid a predicate for that in map D-4 or D-5, but I haven't absorbed it yet.

BY MR. WARD:

Q. Mr. Smith, I direct your attention to a document on the easel marked D-8 for identification and ask you what that is?

A. This is the 1973, October 17-18 hydrographic survey of the studied reach of the problem area.

Q. Depicted on this document is a solid black line broken by circles marked "live". What does that represent?

A. That represents the live boundary between Mississippi and Louisiana at the date of that hydrographic survey, and that was determined on the basis of the locus of the thalweg along the right descending bank and the locus of the thalweg over the Giles Bend crossing environment area.

THE SPECIAL MASTER:

What is the thalweg as you understand it?

THE WITNESS:

The thalweg is the deepest and swiftest water.

THE SPECIAL MASTER:

The deepest and swiftest, are these two qualities always combined?

THE WITNESS:

No; necessarily.

THE SPECIAL MASTER:

This is a combination that may not be the deepest, but it's the deepest that is swiftest?

THE WITNESS:

And the track of navigation, so you've got three things in your criteria, is the way I look at it, that's the way I've always looked at the boundaries, state boundaries, one is the thalweg—there are three criteria: one is the downstream course, one is the thalweg, the other is the track of navigation.

THE SPECIAL MASTER:

One is the downstream course, one is the thalweg, and one of them is the track of navigation. Now would you give me a definition for each of those three terms; downstream course you might begin with.

THE WITNESS:

Yes, sir. Navigation on the Mississippi River, on navigation, the marks are always, that is any guidance, any help, that is the aids that they would put out in a bulletin would be concerning the downstream track.

THE SPECIAL MASTER:

So you get the downstream course or track from navigational aids?

THE WITNESS:

That's where the navigational aids are put out . . ."

Smith then went on to testify, still at TR-371, that the Corps of Engineers put out navigation bulletins from 1930 to 1966 and it was not until 1966 that the Coast Guard took over the issuance of these channel reports and aids to navigation. "So we, the Corps, I speak of the time when I was there, were concerned all that time with the patrol boats, with the bulletins, with the buoys, the track of navigation."

The Special Master seemed to have a continuing difficulty in interpreting Mr. Smith's testimony, as indicated by the following:

"THE SPECIAL MASTER:

I haven't got, Mr. Ward, what I need. I don't know—I'm not blaming him, maybe you can get it for me, but I don't really know yet—I think I know the criteria for locating that line but I don't know how he puts them all together and puts that line on the map." (TR-373)

. . .

"THE SPECIAL MASTER:

Let me interrupt, that means, do I understand you're telling me that at least in that reach of the river upstream down to the X that the line that you have on the map represents both the deepest water and the swiftest current?

THE WITNESS:

And the track of navigation, all three of them are right there.

THE SPECIAL MASTER:

They all coincide?

THE WITNESS:

They all coincide, they are locked in.

THE SPECIAL MASTER:

I understand, and the reason they are locked in as to the track of navigation is because that's what the barge captains going downstream would use because that's the way the lighting navigational aids are?

THE WITNESS:

That's where the deep water is and if he comes into that bend he's going to come in on Hole in the Wall light, which isn't shown on this particular map, but it is a crossing light, so he's going to be running to that light or a little overland. He's going to come into that bend on this revetment.

THE SPECIAL MASTER:

All right, I think I understand. I'm beginning to get it, so why don't you proceed, Mr. Ward." (TR-333, 334, 335)

At this point, while it is somewhat repetitive, we would like to note that Mr. Smith was made Chief of the Navigation, Dredging and Mapping Branch in the Mississippi River Commission office (TR-331), with supervision of the river "from Cairo to the Gulf, and it was concerned with the Lower Mississippi Valley Division, supervision of deep draft navigation and the division activities, which included all of the waters in Louisiana, and portions of the waters in other tributary streams." (TR-332) So he was no neophyte.

Again, in introducing Exhibit D-11, the May 1975 Survey, he testified:

"Q. Was that line put there using the same methodology as you have used in the past?

A. Yes, sir." (TR-383)

Finally, in an effort to save time, hydrographs were introduced, en masse, being D-12, D-13 and D-14:

"THE SPECIAL MASTER:

Will they be admitted without objection?

MR. KIMMELL:

Yes, sir, they are admitted without objection. We've stipulated that those documents introduced would be, his testimony would be the same as with prior exhibits." (TR-386)

We trust that we have established that the Record shows, without contradiction, that Mr. Smith was knowledgeable in the navigational problems of the Mississippi River, for the period from 1950 through 1966, while he was Chief of the Navigation Section which, at that time, issued the bulletins for navigators and put out the lights and maintained the navigation aids, and that he used

these navigation aids in making a determination of his state boundary. Therefore, we submit that the Special Master was in error in concluding that Smith did not use the "navigational aids." (MR-14) The contours of the bed of the river, the floats indicating surface velocity of the current, the lights, and the buoys all were "navigational aids" used by Smith in interpreting the raw data of the hydrographs.

LOUISIANA QUESTIONED SMITH:

"Q. All right, sir, but did you also take into account the navigational aids that were placed upon these hydrographic charts?

A. Yes, sir, I discussed the navigational aids." (TR-438)

Only at one point did Smith say that he did not use the marks.

"Q. You don't look—when you are passing a light and it is directly off to your left or to your right so far as navigation aids are concerned you've passed out of the zone of that light, have you not?

A. Yes, sir.

Q. What's your course there, of those three exhibits that he'd made inquiry as to, was the course of your boundary within the marks, so far as the lights were concerned?

A. Well, I didn't use the marks, I used the thalweg of the Mississippi River to determine the live course. Some of the live courses were within the marks, some of them were not." (TR-452)

Summarizing, it is clear that, regrettably, the Special Master simply did not fully comprehend, and thus mis-

interpreted and gave less weight to, the testimony of Mr. Smith. The specific findings of fact, which we respectfully submit are clearly erroneous, which resulted from this treatment of Mr. Smith's testimony are addressed hereinafter.

D. The Findings of Fact for the Years in Dispute

1. The Boundary in 1975

Beginning at page 16 of this Report, the Special Master makes a rather lengthy analysis of the 1975 boundary, beginning with the hydrographic survey of February, 1974. We think it best to begin with the 1972 hydrograph. We are also going to refer to the exhibits of both Mr. Harrison and Mr. Smith. We select Mr. Harrison's for the reason that he colored in certain contour lines which are readily visible. River depths from zero low water contour to ten feet below low water contour are colored red. This represents shallow water. Depths from ten feet below low water contour to twenty feet below low water contour, which is the next shallowest water, have been colored in yellow. Depths between twenty and thirty feet below ordinary low water are colored in blue. That portion below thirty feet low water contour has not been colored and generally shows as white. (TR-50)

In interpreting these hydrographic maps and in evaluating the report of the Special Master, it should be borne in mind that the Corps of Engineers is committed to maintaining a channel depth for navigation of the Mississippi River at only nine feet. Only that part of the bed of the river colored by Mr. Harrison in red would be less than ten feet deep at low water. Thus, if the bed of the river did not change, the river could be safely navigated in any area colored blue or yellow or uncolored and left as white. It is common knowledge, however, that an alluvial river

such as the Mississippi, whose bed is composed largely of sand, gravel and mud, is not going to hold to a constant elevation. Indeed, it is these tendencies of the thalweg of the river to migrate (and thus scour deeper channels) and the current of the river to pick up and move vast quantities of material from the bed and banks of the river that causes a constantly shifting bed. These phenomena are clearly demonstrated by comparing the 1972, 1973, 1974 and 1975 hydrographs, which were introduced as Harrison's Exhibits P-8, P-15, P-17 and P-19.

The 1972 hydrograph shows a deep, wide river bed almost entirely uncolored from Gibson Light and Mile 372.2 down to Mile 363.0. In the spring of 1973 the Mississippi River experienced a major flood reaching an elevation which was second only to the 1927 and 1937 floods in this century. As described by Mr. Smith (TR-383), this major flood of 1973 caused serious bank caving below the foot of the then existing Gibson Revetment, which was subsequently extended to the south during 1974-1975 about a mile and one-half to its location as shown on the 1975 survey. Approximately 1,000 feet of the Louisiana bank caved into the river, endangering the Mississippi Power & Light Company aerial crossing suspension towers. As a result of this cave-in Mr. Smith testified that the live boundary of the river migrated westwardly and passed over the well site in the 1974-1975 period and remained to the west of the well until about 1979, when it migrated back over the well to the east. Later, it moved back westward again. After 1979, it has been randomly moved back and forth across the well. (TR-384)

Evidence of the build-up of the bed of the river by the deposition of detritus is clearly indicated by the October, 1973 hydrograph, Exhibit P-16. As shown by this exhibit, while there is still deep water upstream, almost

the entire river bed immediately above the well site is colored either blue or yellow. Mr. Harrison's channel line leaves the deep water about a mile below Gibson Light and crosses over to the Mississippi side or left descending bank, passing successively over areas tinted yellow, then blue, and almost touching the very shallow area tinted red.

Mr. Smith, in his analysis of the same 1973 hydrograph used a conservative, safe approach in depicting his thalweg or navigational line. To avoid the mischance of running aground, he selected a route where he would have thirteen-foot low water contours on each side of his sailing channel, with the channel itself being still deeper. These channels were sufficiently wide to accommodate the tows which ply the Mississippi River and also had the advantage of being shorter as compared to the circuitous route adopted by Mr. Harrison, who had navigation going from Gibson Light hard against the Louisiana shore, then across to Giles Bend Light on the Mississippi shore, then turning back across the river again toward Giles Bend Cut-Off Light on the Louisiana shore. In answer to an inquiry from the Special Master (TR-375), Mr. Smith's characterization of his 1973 course which utilized the deepest and swiftest water and was in the track of navigation, was, "You can't beat it."

THE SPECIAL MASTER:

"Would tug boat captains disagree with you and even among themselves?"

THE WITNESS:

"I think the smart captains on a million dollar towboat and a million dollar barge is going to be thinking about getting down the river as safe and as fast as he can."

THE SPECIAL MASTER:

"Is there any disagreement that you know of between captains of barges as to what is the swiftest and safest way to get down the river?"

THE WITNESS:

"Not to my knowledge." (TR-377)

Exhibit P-17, being the February, 1974 hydrograph, shows this same reach of the river becoming even shallower than before, with Mr. Harrison's channel line leaving the deep, uncolored area and crossing over the successively shallow beds tinted yellow, blue and finally red. The April, 1975 hydrograph, Exhibit P-20, indicates still more deposition of material on the bed of the river with increasingly shallow depths appearing. From Mile 371 down to Giles Bend Cut-Off Light there is little white area and all of it is against the right descending (Louisiana) shore. Once again, Mr. Harrison's channel line crosses first yellow, then blue, then red, then blue, then yellow areas.

We do not want to mislead the Court in this discussion because, as shown by the river gauges during this entire period, the river remained at a very high stage and there was ample water in the bed of the river to navigate a tow from the Mississippi bank to the Louisiana bank. What we want to emphasize is that in a time of ordinary or extreme low water the channel course depicted by Mr. Harrison could be fraught with danger and if even a minor change in the bed of the river occurred in the red tinted area a tow could easily go aground.

The Special Master, at page 16 referring to the 1975 hydrograph, said:

Mr. Harrison placed on the survey (Ex. P-19) as he did on the 1974 survey, the channel line depicted on

the 1974 edition of map #38 and could see no reason to modify that channel line for use as the boundary.

As each of these maps, all bearing the number 38, were introduced an objection was made by Mississippi. Ruling was reserved and as the Master reported at page 9, Mississippi "continued the objection in its Brief". We are unsure as to the status of these maps, as to whether they had been admitted or not, but since the Master refers to them frequently in his Report, for the purposes of this submission we are treating our objection as having been overruled.

When the first of these maps was introduced as an exhibit (TR-58) Mississippi stated that she had no objection to the introduction of the exhibit as being a true photostatic copy of map #38 of the 1972 Folio, it having been stipulated between Louisiana and Mississippi that any publication, map, chart or survey of the Mississippi River Commission or Corps of Engineers could be introduced without further proof of authenticity. But Mississippi did "object to these locations as having any probative effect on the question before the Court."

THE SPECIAL MASTER:

"We'll admit them for whatever they're worth."

MR. WARD:

"Now the lines have been put on the map, for what purpose, and the accuracy not having been established."

THE SPECIAL MASTER:

"I understand that objection. It's noted. I reserve it. Anything further than that can go to the weight."
(TR-59)

To explain the significance of the exhibits, Louisiana tendered a letter from the Vicksburg District Corps of Engineers, to which objection was made and ruling reserved, based upon the hearsay rule, and during cross-examination (TR-232) Mr. Harrison was asked to read the following excerpt:

"As requested in your letter of 20 November 1979, regarding the channel line shown on Flood Control and Navigation Maps of the Mississippi River within the Vicksburg Engineer District the following information is furnished.

A. The general location of the channel line is sketched on the maps by Vicksburg District Navigation Branch personnel." (TR-233)

Obviously, documents which merely purport to depict the "general" location of a line which has been "sketched" on the maps by Vicksburg District Navigation Branch "personnel" are of little value as an aid in determining a boundary line between the States of Louisiana and Mississippi. Nowhere in the record is there any identification of the "personnel" who made the "sketch" nor is there any proof of either their qualifications or the information upon which the location of the "channel line" is based. Moreover, as has been mentioned, Mr. Smith actually directed the preparation and publication of these generalized maps in his capacity as Chief of the Navigation Branch of the Mississippi River Commission. Well understanding their intended purpose, the great time lapse between the dates of data acquisition and map publication (up to two years) and the gross inaccuracy of these charts, Mr. Smith fully discussed these pictorials and responded to a question about the wisdom of using them for boundary determinations by saying, "I wouldn't think of it . . ." (TR-411-414)

Smith used the methodology already discussed herein-above in placing his state line on the April, 1975 hydrograph. While the Special Master recognized this, his reaction was adverse. He states:

"Mr. Smith defined the nature of the crossing environment in April, 1975 by placing 15-foot contour lines on the survey, using the soundings found thereon (Ex. D-11). Areas within these contour lines would be covered by less than 15 feet of water relative to the average low water plane." (MR-19)

This statement completely overlooks the fact that the sailing line lies *between* the fifteen-foot contours, and at lower depths, and even these limiting contours themselves are six feet deeper than the nine foot channel maintained by the Corps of Engineers. Thus, Smith depicted a perfectly safe channel. Again, the Master recites:

"The boundary line placed on the April, 1975 survey by Mr. Smith appears to be based on two factors, the location of the upstream trough of deep water and the location of the shallow water indicated by the 15-foot contour lines. As an indicator of the probable course of downstream traffic, Mr. Smith's boundary line presents several problems.

"First, the line is not consistent with Mr. Smith's own testimony as to the manner in which a navigator would proceed between Gibson Light and the Giles Bend Cutoff Light. Upstream from the bend, Mr. Smith's line hugs the right descending bank so closely and for so long a distance that its heading bears almost no relationship to that light. Moreover, the line reflects no 'breaking down' of the tow (that is, making a turn) upstream from the Giles Bend Light so that

the tow is headed downstream by the time it passes the light." (MR-19)

Again, the Special Master misreads Mr. Smith's testimony. Mr. Smith's navigation line or thalweg passes Gibson Light and courses downstream an easy distance off of the Gibson Light revetment until it passes the end of the revetment, at which time it moves out gradually into the center of the river to take a position where it can pass down the middle of Giles Bend Cut-Off. There is no necessity to "fill in the marks" because the mariner would not pass over the crossing from Gibson Light to Giles Bend Light and then back again from Giles Bend Light to Giles Bend Cut-Off Light. Rather, the pilot would go directly from Gibson Light to Giles Bend Cut-Off Light, using each of these lights as a "passing light." Nor is there any necessity for "breaking down" the tow upstream from Giles Bend Cut-Off Light, as it would maintain practically a direct course through safe water throughout. As Mr. Smith testified, for the purpose of taking advantage of the deepest water, the swiftest water, and the shortest distance, his route just could not "be beat".

Again, on page 19, the Master relates:

"The second problem relates to one of the apparent advantages of Mr. Smith's proposed boundary line. It lies in or near the deepest water available upstream from the bend. However, the relative locations of the two troughs of deep water precludes, absent an implausible sharp turn to the left, making such full use of the deepest available water both upstream and downstream from the bend. Traffic passing along Mr. Smith's boundary line would fail to take advantage of the first 3,500 to 4,000 feet of the downstream trough of deep water. Thus, Mr. Smith's line cannot be justified on the basis that it is located in the deepest water.

It is so located upstream from the bend, but it is not so located downstream."

Here again, the Master ignores Mr. Smith's methodology which consists of using the deepest water, the swiftest water and the track of navigation. However, the Master does seem to recognize that a crossing over to Giles Bend Light would be "an implausible sharp turn to the left".

Again, on page 20 of the Report, the Master seems to be arguing against himself when he states:

"Nothing in the record indicates a necessity for avoiding the 15-foot contour areas entirely. The study gage data indicate very high water during this period and safe navigation was possible virtually anywhere within the crossing environment. Even if one infers the probable course of downstream traffic by reference to water depths relative to the average low water plane, water 15 feet deep apparently would be safe since the Corps of Engineers project for this reach of the river prescribes maintenance of a channel only 9 feet deep."

Mr. Smith did not see the necessity, nor do we, of abandoning a channel which had a six-foot depth over and above the nine-foot project channel. We submit that Mr. Smith was correct in picking a course that took advantage of the deep water, the swift water and the shortest distance through the crossing environment.

2. The Boundary in 1976

The Master's comments on the April, 1976 hydrograph are in large part a recapitulation of his analysis of the 1975 hydrograph. Again, he notes that Mr. Harrison transposed the 1976 edition of Map No. 38 onto this hydro-

graph and "could see no reason to modify this line for the purposes of locating the live boundary." (MR-23) The channel selection by Harrison again crosses over to the left descending (Mississippi) bank and then turns westward through the crossing to Giles Bend Cut-Off and then proceeds down the middle of Giles Bend Cut-Off. Smith's line follows the very deep water adjacent to the Gibson revetment in a straight line and at the end of the revetment, marked by the white area, passes over areas shaded yellow, then blue, then yellow again, down into the Giles Bend Cut-Off channel. Once again, we have the economy of Mr. Smith's line which utilizes the deepest water, swiftest water and most direct route as against Harrison's circuitous route by way of Giles Bend Light. Both channels or lines are in water sufficiently deep to accommodate the tow without any danger of grounding. Mr. Smith continues to honor his fifteen-foot contour lines. The Special Master recognizes:

"One advantage of a route along Mr. Smith's boundary line relates to the truism that the shortest distance between two points is a straight line. In addition, Mr. Smith's boundary line has the advantage of lying in the deepest water within the crossing environment, from a point approximately 1 1/2 miles upstream from the well to a point 1,000 feet upstream from the well. However, this advantage can be gained only at the cost of disregarding several thousand feet of deeper water available upstream from the crossing as well as the first mile of deep water downstream from the bend. The deep water would tend to attract mariners to a route along the channel line depicted on the 1976 edition of Map No. 38, or east thereof." (MR-24)

It is difficult to see why the advantage of Smith's short route is off-set by "disregarding several thousand

feet of deeper water" when it is not needed, because the deepest water is along the route selected by Smith.

Again, the Master, at page 25 of his Report, says:

"Given the characteristics of the crossing environment, Mr. Smith's boundary line is plausible as an indicator of the probable route of downstream traffic in the ordinary course. However, maximum use of deep water recommends a sailing line very similar to the one inferred for 1975. In addition, such a line would have allowed the mariner to keep his tow pointed down the river with no sharp turns and without encountering hazardous water within the crossing environment. I infer that the probable course of downstream traffic in April, 1976 lay along the channel line depicted on the 1976 edition of Map No. 38 or to the east thereof, and passed to the east of the well by approximately 1,000 feet." (MR-25)

We do not understand the reasoning of the Special Master, who concedes that Smith's route is the shortest (being a straight one) but then says that Harrison has an advantage in that his route will "keep his tow pointed down the river with no sharp turns".

In commenting on the July, 1976 survey, at page 25 of his Report, the Special Master states:

"The survey for July indicates very little change in the river, except that an avenue of water 20 to 30 feet deep is available within the crossing environment to the west of the well; Mr. Smith places his boundary line in the middle of this avenue (Ex. D-14). Thus, the location of the deepest water within the crossing environment recommends a course along Mr. Smith's boundary line. Once again, the location of the deep water troughs above and below the bend

suggests a course along or to the east of the channel line depicted on the 1976 edition of Map No. 38. No hazards within the crossing environment preclude following either course."

Since there are no hazards within the crossing environment in either course, it is difficult to understand why the Master recommends the longer course selected by Mr. Harrison.

The Master comments, on page 26, that there is little change between the July and October, 1976 survey. He does make one interesting comment, in support of his independently determined line:

"The survey does indicate the location of a number of buoys in this reach of the river. When proceeding downstream, the mariner is to give the red buoys a wide berth on his left and the black buoys a wide berth on his right. A mariner proceeding along Mr. Smith's boundary line would nearly overrun the first black buoy and would have the second black buoy to the left of his tow as he passed that buoy. Mr. Smith asserted that the second buoy appeared to be off station. In responding to questions on cross-examination, he objected to the placement of the second buoy because it lay in the path of his boundary line, an objection which places the cart before the course. The evidence provided by the survey and the Channel Report supports the inference that downstream traffic continued to follow a course along or to the east of the channel line on Map No. 38 and passed approximately 1,000 feet to the east of the well. I find from all of the evidence that the probable route of downstream traffic in the ordinary course throughout 1976 passed to the east of the well."

Mr. Smith's appraisalment of the situation is entirely correct for the reason that these black buoys are located in the very deepest part of the channel. This is indicated by the elevations of the bed of the river which are lowest at the point where the buoys are stationed. While much has been made by Louisiana, and now the Master, about the location of Smith's thalweg with respect to the black buoys appearing on these particular hydrographs, Mississippi pointed out to the Master that these exhibits were studied considerably by Mr. Smith and the other experts long before testimony was offered. With over fifty years' experience regarding navigation and other aspects of the Mississippi River, Mr. Smith surely would not consciously ignore a shallow water buoy without plausible explanation. Having intimate knowledge of, and being formerly responsible for, placement of these buoys in the river, Mr. Smith certainly is qualified to determine whether or not one is "off station." To suggest otherwise is ludicrous. It should be noted, in passing, that even Mr. Odom's so-called "geological thalweg" (which he says is the deepest part of the river) runs right over these same black buoys.

3. The Boundary in 1977

The Special Master comments, at page 27 of his Report, that Smith's boundary line reflects a straight line course across the neck of Giles Bend, but then says:

"I can find no evidence in the record to support the placement of Mr. Smith's boundary line. The upstream trough of deep water lies in the middle of the river and not along the right descending bank where Mr. Smith places his line. The deepest water available within the crossing environment lies consistently in the middle or eastern half of the river and not along the right descending bank. Mr. Smith places

his boundary between two areas of shallow water defined by 15-foot contour lines. The contour lines may be misdrawn. See note 4, *supra*. At low water, the water would be less than 15 feet deep throughout almost the entire western two-thirds of the river, from the bend to the well, and Mr. Smith's boundary line lies in the middle of this shallow water. The downstream trough of deep water lies along the left descending bank and Mr. Smith's line, as a course for navigation, would make no use of the first mile of this deep water. A Channel Report introduced into evidence (Ex. P-31) recommends the same course as recommended in the 1976 reports. The 1977 channel line closely approximates this course. Mr. Smith's boundary line bears no relationship to the recommended course."

There are one or two comments of interest that can be made about this recommendation of the Special Master. First, a mere glance at the hydrograph shows that the Master's conclusion regarding the upstream trough of deep water is patently erroneous. Second, criticising Mr. Smith's boundary between two 15-foot contour lines, the Master notes that "the contour lines may be misdrawn. See note 4 *supra*". Note 4 appears at page 24 of his Report and reads as follows:

"Most surveys that were introduced into evidence, including Exhibit D-13, are composites which join together two surveys for portions of the river upstream and downstream from Giles Bend. On Exhibit D-13, the upstream and downstream surveys indicate different figures for the average low water plane. It is not clear which figure should be used for purposes of drawing contour lines. Mr. Smith used the higher elevation indicated on the downstream survey, which

has the effect of diminishing the area within the 15-foot contour lines."

What has apparently troubled the Special Master is his lack of knowledge of the gradient of the Mississippi River. As the river nears the Gulf of Mexico, the flatter its gradient becomes. Harrison's Exhibit P-29 shows the legend "LWRD" located on the east shore of the Mississippi

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approximately half way between Mile 370 and Mile 371. Shown further downstream on the Mississippi bank, approximately half way between Mile 366 and Mile 367, is another legend "LWRD". These figures indicate that

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on the 20th day of May, 1977 the low water reference plane was 24 at the upper limits and changed from 24 to 23 opposite Giles Bend Cut-Off Light. This indicates that in this reach of the river, approximately four miles, the gradient or slope of the river was one foot, which means that the water plane fell approximately 3.0 inches per river mile.

Yet another point of interest on the May, 1977 hydrograph is that the three lines of floats immediately upstream from Giles Bend Light indicate that the current was relatively slow and at the same velocity across the entire surface of the river at this point. Under these conditions, it would seem entirely logical that the shorter and more direct sailing line selected by Smith would be preferred over the curving, roundabout channel selected by Mr. Harrison. No advantage could be gained by crossing over to Giles Bend Light and then crossing back to Giles Bend Cut-Off Light before entering Giles Cut-Off.

In sum, the Master again holds up as the apparent "standard" the generalized sailing line on the Corps' navigation pictorials. Moreover, while earlier justifying the

use of "shallow" water so long as prevailing depths exceeded the nine-foot "project channel", the Master here compels the use of deeper water in order to opt for the route he prefers. The inconsistency is obvious.

4. The Boundary in 1981

In discussing the April, 1981 hydrograph, the Special Master comments that there are deep troughs of water upstream and downstream from bend and "a broad avenue of water 20 to 30 feet deep lies within the crossing environment between the two troughs of deep water." At page 29 he notes that no hazards would be encountered within the crossing using either the Harrison, Odom or Smith line, but he discards Smith's line, stating:

"However, this course would fail to make use of substantial portions of the deep water troughs and thereby lengthen the crossing."

Frankly, nothing in evidence explains the Special Master's reasoning at this point. Once again, both the Odom and Harrison sailing lines "cross over" from the Louisiana shore to the Mississippi side in the vicinity of Giles Bend Light and then turn back west toward Giles Bend Cut-Off Light before entering Giles Bend Cut-Off Channel. The Smith line follows the deep water along the Louisiana shore until it leaves the Gibson Light Revetment, and then takes a straight, direct, shorter path into the head of Giles Bend Cut-Off. We see no factual basis whatsoever for the statement by the Special Master that Smith's course lengthens the crossing.

Moreover, following the arc chosen by the Master would require the mariner to leave Giles Bend headed directly toward the Louisiana bank, thus necessitating a sharp turn of the tow to the left, in the swift water in the "necked down" area at the head of Giles Bend Cut-Off

(the increased velocity is clearly evidenced by the absence of shoaling, indicating deeper water). These sharp turns, which may be easily measured on the hydrographs at 27-30 degrees, may be accomplished by a sailboat with ease, but by a quarter-mile long tow only with great difficulty. The course chosen by Mr. Smith, in marked contrast, reflects an "easy" passage through the area.

We respectfully submit that the course chosen by the Master for the 1981 hydrographs simply doesn't square with either the data on the hydrographs or the practical realities of navigating large tows on the river.

E. The Special Master's Refusal to Delineate a Specific Boundary

In his draft report, the Special Master made no findings of fact regarding the precise locus of the thalweg (State boundary), by geodetic coordinates, for the entire length of the reach of the river in dispute, for any time period in issue. Mississippi, in post-trial argument on the draft report before the Master in Denver, strongly contended for this feature in the final report and, at the Master's direction, fully addressed the point in our supplemental brief. While we refer to and urge the Court to carefully consider the points and authorities found in our supplemental brief, we feel that additional comments are required as a result of the Master's final election not to determine a specific locus for the State boundary involved here.

Louisiana and Mississippi have, from the very outset of this litigation, contended that the end result would be establishment of a definitive boundary in the live thalweg of the Mississippi River in the "area in dispute". Louisiana specifically asked for this relief in her Complaint, and repeatedly supported this prayer for relief

throughout her briefs and presentation of evidence at trial. Likewise, Mississippi has steadfastly maintained that the objective sought in this suit was delineation of a boundary, preferably by geodetic coordinates, as was done in *Louisiana v. Mississippi*, *supra*.

Only when the Special Master circulated for review his preliminary draft of the Report now before this Court did the States see that they were not going to be given what they had asked for all along. Rather than commit to paper his own independent judgment regarding the specific location of the State boundary in the "area in dispute" during the times relevant to this litigation, the Master has leaped from the "boundary" issue to a "title" concept whereby he now recommends that this Court simply declare that at all times relevant hereto the live thalweg of the Mississippi River lay east of the location of the bottom hole of the oil well in issue.

On page 31 of his Report, the Special Master tersely states, "The issue in this case, from the time it was first filed in state court, and as pled and tried in this Court, is the location of the boundary in relation to the bottom hole of Louisiana State Well No. 3. . . ." (Emphasis added) In the purest sense, this is simply not true. The ultimate issue before this Court is, conversely, the location of the bottom hole of Louisiana State Well No. 3 with respect to the boundary in dispute. A slight change in semantics results in an altogether different posture for the case. What the Special Master literally now asks this Court to do, to use his own words, is to "get the cart before the course".

Using the same hydrographic maps, based upon controlled surveys, showing bank lines, elevations of the bed of the river, (mean sea level) and mean low water plane we here see the strange spectacle of the Louisiana expert

witnesses disagreeing between themselves as to the locus of the thalweg, Mississippi's expert, Smith, describing a third locus, with the Special Master rejecting all three but refusing to either recommend a thalweg locus by reference to geodetic coordinates or to depict its location by superimposing it on the hydrographics. Amazingly, the upshot of the ultimate decision—ownership of the well—appears to have been reached while the principal (and only) issue floats amorphous in the ether.

As has already been mentioned in the initial passages hereof, the Special Master has made no determination whatsoever regarding a "boundary", while he labors with great pains to describe a "probable course" of downstream traffic in the reach of the Mississippi River now being examined. However, after straining to place the "probable downstream course" where he wanted it, the Special Master then completely discarded the entirety of this course save for one distinct point—a point lying on an east-west line drawn through the location of the bottom hole of Louisiana State Well No. 3. In summary fashion, the Special Master then, through approximate distances between the terminal points of this imaginary line, places the non-existent "boundary" at all times east of the well.

In an effort to justify the "shortcut" method of resolving the complex issues before the Court, the Special Master then attempts to negate in wholesale fashion the efficacy of establishing a specific boundary by geodetic coordinates. The basic thrust of this contention is that, inasmuch as the live thalweg is, indeed, ambulatory at all times, the State boundary based thereon is literally "here today and gone tomorrow". Mississippi not only has contended for this proposition from the outset, but steadfastly supports this thinking now. However, aside from any problems of drainage occasioned by the west-

ward migration of the thalweg of the river, as may be asserted by the Dilles, other ramifications of the determination of the State boundary in question are inescapable. First, as has been alluded to only lightly by the Special Master, both States have regulatory and taxing authority over the lands extending to their common boundary. The precise location of the State boundary at a given point in time, while it may change immediately, has great significance to tax assessors and collectors in both states. Moreover, inasmuch as riparian owners on the Mississippi side of the river must describe their lands with specificity whenever the same are conveyed, the determination of the Special Master in this case regarding the location of the State boundary takes on critical proportions when the matter of property transfers is taken into account.

Additionally, while the Mississippi Oil and Gas Board has established no drillings units on the Mississippi side of the live thalweg in the area in dispute, as has been done in Louisiana, there is no reason to suggest that this effort might not commence at any time. That being the case, the State of Mississippi must be able to establish, with reasonable precision, the exact location of the State line so as to prescribe the limits of drilling units on the Mississippi side of the river. Again, while the boundary may, indeed, migrate daily, the determination of this Court in this case would be of great benefit as a guideline to all who may have to face the same or similar questions in the future.

Additionally, a precise determination of the interstate boundary in this case will enure to the benefit of the State of Louisiana, as well. As is obvious from the exhibits attached to Louisiana's original pleadings, several drilling units, including areas bounded by a portion of the "dead" 1964 thalweg in the Giles Bend Cut-Off,

were created years ago. Since even Louisiana has now established a westerly migration of the State boundary in the years subsequent to establishment of these drilling units, it is abundantly clear that the State of Louisiana, which owns the submerged bed of the Mississippi River out to the State boundary, must now readjust several parameters surrounding these drilling units and production therefrom. Again, there is no way for the State of Louisiana to make any decision regarding the effect of the westerly movement of the live thalweg of the river in the area in dispute upon existing Louisiana drilling units unless this Court now does what it has always done in the past—prescribe the State boundary by ascertainable coordinates. Louisiana has asked this Court for such relief all along, and only after the Special Master indicated in the preliminary draft of his report that he would hold in favor of Louisiana did Louisiana decide “not to look a gift horse in the mouth,” and acquiesced in the Special Master’s suggestion that he not be called upon to define the State boundary in contest with any specificity.

In sum, Mississippi can find no other prior dispute involving an interstate boundary wherein the rule of the thalweg governed that this Court has not specifically determined a precise location of the disputed boundary. This is certainly no time to deviate from long established policy.

III.

CONCLUSION

Mississippi readily acknowledges that resolution of intricate, complex fact questions such as those inherent in this litigation is extremely demanding, and we commend the diligence of the Special Master in his attempts to deal with the situation at hand. Refereeing a "battle of experts" is difficult enough when the result entails merely the choice of the testimony of one particular expert over another or others. The difficulty compounds when, as here, a Special Master fashions his own "expert" opinion virtually independent of that of the witnesses.

Yet another obvious consideration here is that the dispute ultimately focused on but four of the nine years in question. Placement of the live thalweg in such a way that the well would be to the east thereof in all or even part of any of those years would mean further litigation regarding refunds of royalties and production payments and all other similar matters sought to be injected into these proceedings earlier by operators and royalty owners. All involved, including the Special Master, recognized this, and so must this Court. However, notwithstanding such anticipated trauma, equity requires that the thalweg, and thus the State boundary, be properly drawn for each hydrograph in each year examined, even if this results in the well being located in Mississippi for only a brief interval. To do otherwise would be resorting to mere expediency.

Mississippi and her co-defendant, Avery B. Dille, Jr., respectfully submit that the Special Master erred in his findings of fact, as thoroughly discussed hereinabove, and further erred in refusing to specifically define the locus of the State boundary for the full length of the reach of

the Mississippi River in dispute here, for each of the years in question. Mississippi prays that this Court will reverse the Special Master and enter its Decree here determining the locus of the Louisiana-Mississippi State boundary here in issue to be as described according to the geodetic coordinates prepared by Mr. Austin Smith, as set forth on Exhibit D-23, at page 434 of the trial transcript.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, WILLIAM S. BOYD, III, Special Assistant Attorney General of the State of Mississippi and a member of the bar of the United States Supreme Court, do hereby certify that I have this day forwarded by United States Mail, postage prepaid, in the number and manner prescribed by Rule 33 of the Rules of the United States Supreme Court, true and correct copies of the foregoing Exceptions To The Report Of The Special Master to the following:

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No. 86, Original

Office - Supreme Court, U.S.

FILED

SEP 9 1983

ALEXANDER L. STEVAS,
CLERK

**In the Supreme Court of the
United States**

OCTOBER TERM, 1982

STATE OF LOUISIANA,

Plaintiff

VS.

STATE OF MISSISSIPPI, ET AL.,

Defendants

**REPLY BRIEF FOR LOUISIANA
TO EXCEPTIONS OF MISSISSIPPI**

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STATE OF LOUISIANA,

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STATE OF MISSISSIPPI, ET AL.,

Defendants

REPLY BRIEF FOR LOUISIANA TO EXCEPTIONS OF MISSISSIPPI

I.

PRELIMINARY STATEMENT

The matter before this Court has its genesis in a lawsuit filed by a Mississippi citizen, Avery Dille, Jr., a riparian landowner and a defender herein, against the State of Louisiana and others on or about June 23, 1979 in the Chancery Court of Adams County, Mississippi. The cause of Mr. Dille's suit was the ownership of revenue produced from a Louisiana well (State Well No. 3) which had been directionally drilled from a surface location in Adams County, Mississippi, to a point within the bed and bottom of the Mississippi River in the State of Louisiana.

Mr. Dille's argument, quite simply, was that the boundary between the States of Mississippi and Louisi-

ana, in the disputed area, had migrated westwardly to such an extent that State Well No. 3 (hereinafter referred to as "the well") was, since 1972, the year of first production, in the State of Mississippi.

This suit was removed by the State of Louisiana to the United States District Court for the Southern District of Mississippi, Western Division, on or about July 20, 1979.

An original action was filed by the State of Louisiana against the State of Mississippi and Avery Dille, Jr. on or about December 21, 1979, since ownership of the well or the proceeds thereof, necessarily brought both states into contention as to where their jurisdiction lay.

On October 19, 1981, this Court appointed the Honorable Charles J. Meyers as Special Master to hear this case which was tried on September 20-22, 1982.

The Special Master ruled in favor of the plaintiff, Louisiana, in all respects, on June 15, 1983. Mississippi has filed Exceptions to the Special Master's Report to which Louisiana now replies.

II.

**THE FIRST EXCEPTION OF THE STATE OF
MISSISSIPPI TO THE REPORT OF THE
SPECIAL MASTER**

Mississippi first excepts to the Report of the Special Master in finding as fact that at all times relevant to these proceedings the live thalweg of the Mississippi River in the area of dispute lay to the east of the bottom hole location of the well.

The "area in dispute" is commonly called Giles Bend Cut-off, just to the north of Natchez, Mississippi. As Mr. Hatley Harrison, one of Louisiana's expert witnesses, testified, Giles Bend Cut-off was constructed between the years 1933 and approximately 1939, at which time the cut-off captured the main flow of the Mississippi River, effectively abandoning the old westerly bend which had marked its main course. TR-34-36.

Numerous hydrographic surveys for the years 1972-1982 were introduced by both sides. For the year 1972, Louisiana introduced P-8, a hydrographic survey. Mr. Harrison explained to the Court the meaning of the various symbols located on the chart. Among the many symbols on these charts are stars which, as Mr. Harrison testified, are navigation lights installed by the United States Coast Guard for the safe navigation of the river. TR-48. In addition, Mr. Harrison explained that mile markers are placed on these hydrographic charts at various intervals which represent the distance above the Head of the Passes near the mouth of the Mississippi River. TR-33. The area with which this Court is concerned or, in other words, the location of the bottom hole

of the well, is about 369 miles above the Head of the Passes at the mouth of the Mississippi River.

There are several navigation lights which are of principal interest to the Court. On the right decending bank there is the Gibson light. About 3½ miles downstream on the left decending bank, there is the Giles Bend light and about 2 miles further downstream on the right decending bank there is the Cowpen light. At TR-71, Mr. Harrison explained to the Court exactly how these navigation lights are utilized by mariners, to wit:

MR. KIMMEL:

Q. Now, Mr. Harrison, before you go back and sit down, am I given to believe that as ships come down the river they will see what you've denominated as the Gibson Light, they would see that on their right?

MR. HARRISON:

A. As they decend the river it will be on their right.

MR. KIMMEL:

Q. All right, and in effect what they're supposed to do then is shoot for the Giles Bend light?

MR. HARRISON:

A. That's right, this is the next light that they go for, because it takes them safely across the relatively shallow water of the crossing and it puts them into the deep water on the left decending bank.

MR. KIMMEL:

Q. And then after they reach the Giles Bend Cut-Off they shoot for the next light, which would be Cowpen?

MR. HARRISON:

A. Yes, Cowpen Point here. The navigation instruc-

tion then tell them how to proceed, it says two hundred yards open, or three hundred yards open on the Giles Bend Cut-Off Light, which means they'll be two or three hundred yards off the light in the river, and then they head on down, in some instances it says down midchannel, till they hit the Natchez Beam Light and the George Prince Light, which are not shown here.

There is really no dispute as to the general legal principles involved in this case. When a navigable river forms a boundary between two states, the law of thalweg or middle of the main navigable channel is a true boundary line. *Iowa v. Illinois*, 147 U.S. 1 (1893). The dividing line between two states is not the center of the stream but is the center of the main navigable channel. *New Jersey v. Delaware*, 291 U.S. 361 (1934). This dividing line, or thalweg is the middle of the main navigable channel which is normally the principal course taken by boats and is not necessarily the deepest channel. *Louisiana v. Mississippi*, 202 U.S. 1 (1905).

A state's jurisdiction extends to the thread of the stream, that is, to the "mid-channel," and if there be several channels, to the middle of the principal one, or, rather, the one usually followed. *Iowa v. Illinois*, supra.

When more than one navigable channel exists, the division of the safest channel generally takes precedence. When more than one channel exists and traffic is heavy, then *shipping lanes* may be established without regard to the deepest channel in order to insure the safe and orderly movement of vessels. Similarly, where no particular channel exists, but practically the whole broad expanse of the river is navigable and navigated, the

boundary will be determined by reference to actual or probable use in ordinary course. *Minnesota v. Wisconsin*, 252 U.S. 273 (1919).

Three experts testified at the trial. Mr. Hatley Harrison and Mr. Leo Odom testified on behalf of Louisiana and Mr. Austin Smith testified on behalf of Mississippi.

In determining the thalweg, Mr. Harrison utilized numerous and various documents and data to form his opinion. He used hydrographic surveys for each and every year in question. He utilized the Flood Control and Navigation Maps Number 38 produced by the Mississippi River Commission. He studied the U.S. Coast Guard channel reports for the area in dispute, which channel reports were offered in evidence for each and every year. It is true that Mr. Harrison's line generally follows a line adapted by the Mississippi River Commission and is reflected on the Flood Control Navigation Maps Number 38. But as he testified, his examination of the problem extended far beyond those particular documents.

MR. KIMMEL:

Q. Mr. Harrison, based upon your studies of the hydrographic charts and flood control and navigation maps, the channel reports and all the other documents that you have been able to look at and ascertain for the years from '72 to '82, would you please summarize your feelings to the Court as a result of your investigation.

MR. HARRISON:

A. I have accepted the line shown by the Mississippi River Commission, the flood control and navigation maps, for a number of reasons. I've explained all the hydrographic surveys by the Corps of Engineers

from March 1972 through March, 1982, I've noted the crossing areas, all of the surroundings, I've located in color the deep water, I've noted the location of the lights. I've noted particularly the Giles Bend Cut-Off Light; it's been there since 1938 in the immediate vicinity. I have noted the aids to navigation on all of these maps, the location of the buoys. I have noted the relationship of the Gibson Light to the Giles Bend Light. I have noted the U.S. Coast Guard channel reports that are issued for the safer navigation of the river. The intention of these charts is to furnish you a guide for safe navigation, high water, low water, night, day, 24 hours a day, 365 days in the year, and they are particularly oriented toward low water navigation because you've got to navigate safely at a critical time. It so happens in this particular area we do have deep water all year round. I have noted the 12 by 300 foot project channel, which the Corps hopes to maintain in the future, as soon as they stabilize the channel. As of now they can only maintain a 9-foot deep below water by 300 foot channel, but there's no need to do any dredging here because you already have your water so that's not applicable here. I've also noted that you have some very large tows on the Mississippi River, some of these as long as a quarter of a mile, some of them seven and eight barges wide. I think a barge is 135, 90 feet; you have quite a tow. Those barges, those navigators don't tie up every night.

THE SPECIAL MASTER:

Q. What's the draft of a particular barge?

MR. HARRISON:

A. Well, they try to maintain a 9-foot channel today.

THE SPECIAL MASTER:

Q. What is it, nine feet below the barges?

MR. HARRISON:

A. They like to maintain a 12-foot channel. At high stages of the river you can get some that draw more than nine feet. But the draft of the barges varies with whatever they are hauling, coal; or petroleum, rather. I've noted that I cannot ignore the lights, the navigation lights, you cannot ignore them. I have examined the geological thalweg connecting the deepest points at each one of those cross-sections which you saw on all of the preceding exhibits, I noted how it zig-zagged across the river. It couldn't be followed. But in all instances the geological thalweg is found in the deepest part of the river and it's always found, it always separates the bottom hole of this well from Mississippi, it always places the bottom hole in the State of Louisiana. I have just shown you the cross sections which I have taken from selected hydrographic surveys. I could have done that with every hydrographic survey. The cross-sections will show the channel line to be in the deepest water in the area under consideration. I have considered the lateral movement of the lines shown on the flood control and navigation maps of the Mississippi River. There has been very little lateral movements from the 1974 hydrographic survey which we placed before you and the 1982 hydrographic survey. There has been some movement but in every instance that line places the well in Louisiana, and the lateral movement from 1972 to 1982 has been of no consequence. It did not sway me to change my opinion that the safe and the preferred navigation line is as shown in the flood control and navigation maps of the Mississippi River. I have also talked to the pilots who navigate the river, I've talked with them. TR-225-228.

By contrast, Mr. Austin Smith testified that he did

not use the navigational aids nor any supporting documents other than his opinion as to where the thalweg should be. For instance, although Mr. Smith testified that he was familiar with channel reports, he completely disregarded their significance. Mr. Smith's apparent explanation for this lapse is that he does not agree with a lot of things that the Coast Guard does and, moreover, the Coast Guard was not in the "boundary business." TR-443. It is true that the Coast Guard is not in the business of establishing interstate boundaries, but it is certainly in the business of establishing tracks of navigation and any assertion to the contrary would be ridiculous. Mr. Harrison explained the importance of the Coast Guard channel reports at TR-129:

MR. KIMMEL:

Q. Now, what are channel reports, Mr. Harrison, do you know what they are; do you know what channel reports are?

MR. HARRISON:

A. They're issued periodically by the United States Coast Guard as an aid in navigating the Mississippi River.

MR. KIMMEL:

Q. How often are they put out?

MR. HARRISON:

A. Sometime they come out weekly, sometimes they come out, they may be two or three weeks between them.

MR. KIMMEL:

Q. And what are the purpose of the reports again, Mr. Harrison?

MR. HARRISON:

A. They are to show the mariner the safe navigation line. They are based on the latest hydrographic surveys by the Corps of Engineers, they are based on soundings taken by the Coast Guard and they are all oriented to the lights, the navigation lights on the Mississippi River.

Mr. Harrison's testimony clearly showed that the channel reports are quite detailed in advising mariners how to approach the crossing environment of Giles Bend. The reports explain which buoys to look out for as well as the distance a mariner is to position himself from a particular light. In most cases, channel reports advise mariners to position themselves either 200 or 300 yards open on Giles Bend Light. Not once did Mr. Smith's supposed navigation line or thalweg come close to the recommended navigation course of the United States Coast Guard.

Not only did Mr. Smith disregard the recommended sailing directions issued by the United States Coast Guard, but he also disregarded any other navigational aid which did not comport with his line. For instance, with reference to D-15 (October 1976 Hydrographic Survey), Mr. Smith's navigation line passes directly over a black can (black buoy) which the Coast Guard advises mariners to avoid by keeping to their right as clear as possible. Mr. Smith's only explanation for this is that it must be "off station" since it does not reflect his track of navigation. In considering this, it appears again that Mr. Smith is not seeking to determine a proper navigational line which is a true determination of a thalweg but, instead, is for-

mulating a line which bears absolutely no resemblance to the evidence.

MR. KIMMEL:

Q. All right, sir. Let's assume one of them was off station. On that particular hydrographic survey are they all off station?

MR. SMITH:

A. That I don't know.

MR. KIMMEL:

Q. All right, sir, well, let's assume they are not. We are assuming that most of the buoys the Coast Guard puts out there for their particular purpose are in the right place, are they not?

MR. SMITH:

A. Yes, sir, but I wasn't considering the locus of the buoys in that the locus of that live boundary at the time of that survey was irreputable along the thalweg, and—

MR. KIMMEL:

Q. That's your opinion, is it not?

MR. SMITH:

A. No, it's not my opinion, it's—the data speaks for itself.

MR. KIMMEL:

Q. Speaks for itself, all right, sir. Does your particular navigational channel practically run over the black cans that have been placed in the river by the Coast Guard for safe navigation? Yes or no, and then you can explain your answer.

MR. SMITH:

A. This is not a navigation line, this is a live boundary line. TR 448-449.

In addition to Mr. Hatley Harrison, Mr. Leo Odom, a Registered Civil Engineer and Certified Land Surveyor who has been a civil engineer for some 55 years, testified on behalf of the State of Louisiana. His opinion in conclusion as to where the course of downstream traffic would follow was similar to that of Mr. Harrison's, although Mr. Odom's approach was slightly different. Mr. Odom placed 3 lines on his exhibits which showed, for clarification, the geological thalweg, which is a line drawn at the deepest points and successive cross-sections of the river. TR-287. In addition, Mr. Odom utilized a sailing line based upon the Mississippi River Commission Floor Control and Navigation Map Number 38, TR-301, as well as the authorized project channel of the Corps of Engineers which is authorized to be maintained at not less than 9 feet below the average low water plain and 300 feet wide. Of these three lines, Mr. Odom, as an expert has recommended the utilization of the sailing line as depicted on his exhibits as a proper determination of the thalweg between the two states. TR-315.

Of the ten years in dispute, only 4, 1975-1977 and 1981, would place the well in the State of Mississippi, assuming Mr. Smith's testimony is to be believed. The Special Master, in his report at pages 16-22, analyzed all the evidence regarding the probable sailing line for the year 1975. Although Mississippi, in its brief, argues that the Special Master misunderstood Mr. Smith's analysis, it is quite apparent that he understood his testimony but did not consider it persuasive. The Special Master examined the hydrographic surveys for April 1975 (P-19, P-65, & D-11), and found that Mr. Smith's line did not conform to the available data on the surveys. For instance, it is incon-

ceivable that a mariner would adopt Mr. Smith's track of navigation and completely disregard important navigational aids such as lights and buoys. With reference to the September 1975 survey, P-20, P-66 & D-12, the Special Master believed that the route offered by Mr. Harrison and Mr. Odom had the same apparent advantages as the route recommended on the April, 1975 survey, in that their line made use of the various aids in navigation, including the Giles Bend Cut-Off Light, and comported with "filling in the marks", *i.e.*, using the lights to negotiate the crossing environment. Mr. Smith's line as evidenced by D-12 did not bear any resemblance to navigational aids and, in fact, passed over shallow water downstream from the well.

Mr. Smith's lack of utilizing available data to determine the probable downstream course of navigation is readily apparent in determining the boundary for 1976. On Mr. Smith's October Survey, D-14, his line completely ignores the crossing lights, overruns the first black buoy and places the second black buoy to the left of his tow. The black buoys, according to the United States Coast Guard, should be passed on the mariner's right as he proceeds downstream. Louisiana's experts proposed a navigational line based upon the hydrographic surveys, Flood Control and Navigation Map Number 38, as well as the channel reports.

For the year 1977, the Special Master found that Mr. Smith's line would not utilize the first mile of deep water, nor does Mr. Smith utilize the channel reports as an aid for navigating this particular stretch of the river. Louisiana's experts, on the contrary, kept the downstream traffic in the proper angle to negotiate the bend and fol-

lowed the channel reports utilizing the necessary lights and buoys.

For 1981, the Special Master found that Mr. Smith's boundary line bore no relationship whatsoever to the recommended course established by the United States Coast Guard. In addition, Mr. Smith failed to utilize the deep water upstream which would tend to attract mariners as they proceeded into the crossing. In spite of Mississippi's statements to the contrary, the recommended course put forth by Louisiana's experts would not cause a sharp turn to the left, but would be a gradual turn to the right as the mariner "filled in the marks" and headed for the next light downstream.

Taking into account all the available data, the Special Master discounted Mr. Smith's boundary line in favor of a navigation track recommended by Mr. Harrison and Mr. Odom.

Louisiana submits the Special Master's Report determining the probable course of navigation during the years in dispute should be adopted. Louisiana's experts interpreted the hydrographic surveys for each of the years in question. Moreover, they also considered the recommended sailing course established by the United States Coast Guard. It cannot be emphasized too highly, that, although the United States Coast Guard is not in the business of establishing a state boundary, it is also not in the business of running mariners aground. It seems inconceivable that the United States Coast Guard would recommend a particular path to negotiate a crossing which would place a mariner in jeopardy. The Coast Guard channel reports are usually published on a weekly basis

and they are based upon soundings taken almost continuously.

It must be stated at this point that Mr. Smith disregarded any physical evidence, including the channel reports, that did not comport with his recommended line. The fact that Mr. Smith's tow would run over a buoy is just one instance in which Mr. Smith completely disregarded the available data in order to establish a particular track of navigation.

The line drawn by Louisiana's two experts follows closely the data contained on the hydrographic surveys as well as the recommended sailing course of the Flood Control and Navigation Map Number 38 and the channel reports. The Special Master's Report in this regard should be adopted by this Court.

III.

**SECOND EXCEPTION OF THE STATE OF
MISSISSIPPI TO THE REPORT OF THE
SPECIAL MASTER**

Mississippi also argues that the Special Master erred in refusing to recommend by precise geodetic coordinates, a geographical locus of the live thalweg of the Mississippi for the entire reach of the river in dispute during each of the revelant years, 1972 to date.

Louisiana submits that the establishment of the boundaries as requested by Mississippi would be an utter act of futility. The thalweg in the disputed area is "live." The Special Master, if Mississippi's request were to be followed, would spend time and expense establishing a line which would be absolutely useless. The boundary as is evidenced by the various exhibits produced in this trial fluctuates virtually on a daily basis. No purpose would be served by having this boundary reduced to a map.

Although this case is styled as a boundary suit between Louisiana and Mississippi, the record clearly reflects the true nature of the lawsuit. This suit arose over the ownership of a well. Mississippi's reasons for establishing a live thalweg from 1972 just do not seem pertinent to the ultimate decision of this case. To this writer's knowledge, there has been no situation, whether it is for taxes or land title, where a live boundary need be drawn which goes back in time ten years. Moreover, any line drawn today, as Mississippi states, would be literally gone tomorrow before the ink is dry on the charts. Louisiana submits that the Special Master's reasoning for not at-

tempting the onerous task of drawing these lines is particularly applicable where, as in this case, the issue is ownership of production of a particular well located in the Mississippi River.

IV.

CONCLUSION

Louisiana respectfully submits that with reference to the live thalweg during the years in dispute, its experts reached an informed opinion scientifically based upon data available to them. They did not fashion a personal thalweg, but took into account and conformed their opinion to the surveys, channel reports, and navigational aids. In effect, they recommended to the Special Master a probable downstream course of traffic, and Louisiana submits that this is what they were supposed to do.

The opinion of Mississippi's expert left many "holes" and did not comport with the hydrographic survey including the proper contours; he did not take into account navigational aids such as lights and buoys; he did not follow in any respect, the channel reports which established a recommended course for mariners negotiating this particular reach of the river. Because of these shortcomings and oversights, the Special Master did not consider the Mississippi expert's testimony to be persuasive and, in reality, rejected much of it.

Considering the nature of this case, Louisiana further submits that it is not necessary for the Special Master to conduct a futile exercise of establishing a migrating boundary for ten years past, and it is equally futile for him to establish one today since that boundary will be non-existent tomorrow.

Louisiana submits that this Court should enter a de-

cree adopting the Special Master's report as written and rejecting Mississippi's claim in its entirety.

Respectfully submitted,

WILLIAM J. GUSTE, JR.,
ATTORNEY GENERAL
STATE OF LOUISIANA

GARY L. KEYSER,
Assistant Attorney General

DAVID C. KIMMEL,
Assistant Attorney General

ERNEST F. EASTERLY, III,
Special Counsel

BY: 

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State of Louisiana
Department of Justice
7434 Perkins Road, Suite C
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(504) 922-0187

CERTIFICATE OF SERVICE

I, DAVID C. KIMMEL, Assistant Attorney General of the State of Louisiana, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 13th day of September, 1983, I served copies of Louisiana's Reply Brief to the Exceptions of Mississippi by depositing same in the United States Mail, postage pre-paid, in the number and manner prescribed by Rule 33 of the Rules of the United States Supreme Court, addressed to:

Honorable Charles J. Meyers
Special Master
Gibson, Dunn & Crutcher
1801 California
Denver, Colorado 80202

Honorable Bill Allain
Attorney General
State of Mississippi
Post Office Box 220
Jackson, Mississippi 39205

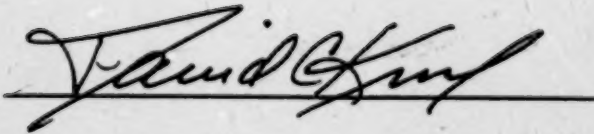
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El Dorado, Arkansas 71730

A handwritten signature in cursive script, reading "David G. King", is written over a horizontal line.

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AUG 5 - 1983

OFFICE OF THE CLERK
SUPREME COURT, U.S.

STATE OF LOUISIANA,

Plaintiff,

vs.

STATE OF MISSISSIPPI,
ET AL.,

Defendants.

APPLICATION FOR FEES

The undersigned, Charles J. Meyers, Special Master in this case, respectfully applies for the total sum of \$64,800 as fees and compensation for legal assistance in hearing and disposing of this case. The Report has been filed with the Court, and its receipt acknowledged.

The accompanying computer printout gives the details of the hours each lawyer or law student spent on the case. Messrs. Crafton, Farnsworth, Jouflas and Schieferstein were summer clerks with Gibson, Dunn & Crutcher and their time was billed by the firm at \$50/hour. Mr. Amber was a first year associate whose time was billed at \$70/hour. Mr. Witt is an associate with four years' experience in practice. He was my law clerk from the time I was appointed Special Master and accompanied me to the several hearings; his work accounts for nearly one-half of the total hours devoted to the case. The average charge by the firm for his time during the 20 months he worked on the case was \$125/hour. My hourly charge, as the parties were advised at the outset, is \$200/hour.

While the printout provides complete information about the work done on the case, it may be helpful to indicate in summary fashion the areas requiring the greatest expenditure of time. Preparation for the pre-trial conference, held on December 16, 1981, approximately two months

the pleadings, not only those filed in this Court but also those filed in the original suit commenced in a state court in Mississippi. Six months later, on June 16, 1982, the pre-trial order was entered and the trial date of September 20, 1982 set. Discovery cutoff had been established as May 21, 1982, at the request of the parties. Preparation of the pre-trial order required a considerable amount of time. After the pre-trial order was entered, certain individuals owning interests in the Louisiana oil and gas lease applied to me for leave to intervene. Briefs were filed and my staff and I conducted legal research to resolve the issue, leading to an opinion and order of September 3, 1982, denying the motion. A substantial amount of time was devoted to this matter.

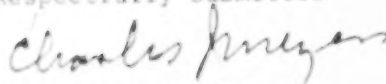
Thereafter, pre-trial briefs were filed by the parties and the trial was held on September 20-22, 1982, in New Orleans. Travel time to and from New Orleans was not charged, and a considerable amount of trial time was saved when I persuaded the parties that it was unnecessary to have the witnesses testify as to the methodology and meaning of each exhibit, many of which involved the same technique for establishing the thalweg of the river.

Post-trial briefs were filed in October, November and December, 1982, and thereafter Mr. Witt and I were heavily engaged in reviewing the evidence, which was a tedious and time-consuming task. One hundred and one exhibits were admitted into evidence, and it was necessary to examine each one, and compare plaintiff's exhibit for a given period of time with defendants' exhibit for the same period in order to reach a conclusion on the probative value of each. This process was necessary for every time period submitted by the parties, for if the river at any time moved westward beyond the bottom hole of the well, the well, for that time period, would have been in Mississippi.

Following the procedure adopted by the Court in Arizona v. California, 373 U.S. 546 (1963), 376 U.S. 340 (decree 1964), I submitted a Draft Report to counsel on February 7, 1983, and heard oral argument on March 17, 1983. At that time, Mississippi requested that the Court draw a geodetic boundary for each of the years in dispute. After substantial research and contemplation, I declined to recommend that action, assigning reasons in the Master's Report.

The total amount of time devoted to this case--499.8 hours--is commensurate, I believe, with the troublesome legal issues and the extremely complex evidence associated with the case.

Respectfully submitted



Charles J. Meyers
Special Master

DOCKET SHEET

October 19, 1981	Order appointing Charles J. Meyers, Esq., of Denver, Colorado, as Special Master in the above-entitled case
November 2, 1981	Oath of Office of Charles J. Meyers executed and returned to the Court
December 16, 1981	Pretrial conference held in New Orleans, Louisiana. Discovery cutoff was established as May 21, 1982
June 16, 1982	Pretrial order entered and case set for trial September 20, 1982, in New Orleans, Louisiana
July 14, 1982	Order regarding Motions for Leave to Intervene
July 27, 1982	Motions for Leave to Intervene and Memorandum in Support filed
September 3, 1982	Order denying Leave to Intervene
September 8, 1982	Trial briefs of parties submitted
September 15, 1982	Responsive briefs of parties submitted
September 20 - 22, 1982	Trial of the case in New Orleans, Louisiana
October 29, 1982	Plaintiff's Post-Trial [Opening] Brief filed
November 19, 1982	Defendants' Post-Trial [Answering] Brief filed
December 3, 1982	Plaintiff's Rebuttal Brief filed
February 7, 1983	Draft Report of Special Master circulated to counsel
March 17, 1983	Oral argument on Draft Master's Report, Denver, Colorado
April 14, 1983	Supplemental Post-Trial Brief filed by Defendants Requesting the Drawing of a Boundary by Geodetic coordinates
May 2, 1983	Supplemental Post-Trial Brief filed by Plaintiffs on the Issue of Drawing a Boundary
June 15, 1983	Report of Special Master filed with the Court and served on counsel

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JUL 6 1983 22:43:04

GIBSON, DUNN AND CRUTCHER
SPECIAL BILLING INFORMATION SHEET - SUMMARY

USER: DRW

REQ BY: CJMEYERS

ATTORNEY IN CHARGE: C.J.MEYERS
BILLING ATTORNEY : C.J.MEYERS

CLIENT: MISSISSIPPI & LOUISIANA
MATTER: 86 ORIG - U S SUPREME CT

OLD FILE: TY776
NEW FILE: 62147-00016

SERVICES RENDERED : ALL THRU 06/30/83

	NAME	HOURS
A	2568 C.J.MEYERS	143.60
A	4560 K.E.WITT	240.90
A	0158 G.A.AMBER	11.60
	0569 S.M.CRAFTON	18.10
A	1090 A.R.FARNSWORTH	26.00
	1933 G.G.JOUFLAS	1.00
A	3689 D.R.SCHIEFERSTEIN	58.60
	TOTAL	499.80

REPORT ID - BIC100 - P
JUL 6, 1983 22:43:04

GIBSON, DUNN AND CRUTCHER
SPECIAL BILLING INFORMATION SHEET - DETAIL

USER: DRW P

REQ BY: CJMEYERS

ATTORNEY IN CHARGE: C.J.MEYERS
BILLING ATTORNEY : C.J.MEYERS

CLIENT: MISSISSIPPI & LOUISIANA
MATTER: 86 ORIG - U S SUPREME CT

OLD FILE: TY776
NEW FILE: 62147-00016

SERVICES RENDERED : ALL THRU 06/30/83

	HOURS	DATE	NAME	DESCRIPTION
BIS	1.00	11/03/81	C.J.MEYERS	PREPARING FOR CONF CALL
BIS	1.30	11/04/81	C.J.MEYERS	PREP FOR & CONDUCTING CONF CALL ON ARRANGEMENTS
BIS	.50	11/23/81	C.J.MEYERS	ARRANGING PRE-TRIAL CONF
BIS	.50	11/24/81	C.J.MEYERS	SETTING UP PRE-TRIAL CONFERENCE
BIS	.50	12/07/81	C.J.MEYERS	PREPARING PRE-TRIAL CONF
BIS	3.50	12/09/81	C.J.MEYERS	DISCUSSION W/JUDGE BREITENSTEIN; READING PLEADING
BIS	.30	12/10/81	C.J.MEYERS	PREPARING FOR CONF
BIS	1.00	12/10/81	K.E.WITT	RVW DOCUMENTS TO PREP SUMMARY OF DISPUTE
BIS	6.50	12/11/81	K.E.WITT	RVW DOCUMENTS & PREP NARRATIVE SUMMARY OF THE DISPUTE
BIS	2.00	12/14/81	K.E.WITT	PREP MEMO TO SUMMARIZE DISPUTE FOR CJM
BIS	2.00	12/15/81	C.J.MEYERS	PREP FOR MTG
BIS	3.00	12/15/81	K.E.WITT	PREP MEMO TO SUMMARIZE DISPUTE FOR CJM
BIS	6.50	12/16/81	C.J.MEYERS	CONF W/COUNSEL IN NEW ORLEANS
BIS	.50	01/22/82	C.J.MEYERS	OPEN BK ACCTS & HANDLE FINANCES
BIS	1.00	02/05/82	C.J.MEYERS	READING LEGAL MEMOS FROM PARTIES
BIS	.50	02/11/82	C.J.MEYERS	TC W/D. DICKENS
BIS	.50	03/22/82	G.A.AMBER	RSCH RE ACCRETION & MINERAL SEVERANCE
BIS	4.40	03/23/82	G.A.AMBER	RSCH RE ACCRETION & SEVERANCE OF MINERALS; TRVL T & RSCH AT SUP CT LIBRARY
BIS	4.50	03/25/82	G.A.AMBER	PREPARD MEMO RE ACCRETION/MINERAL ESTATE; CONF W MEYERS
BIS	1.30	03/26/82	G.A.AMBER	PREP MEMO RE ACCRETION & REVISE SAME
BIS	.80	03/29/82	K.E.WITT	READ AMBER MEMO, OKLAHOMA AND CANADIAN CASE
BIS	.60	03/29/82	G.A.AMBER	REVISE MEMO
BIS	.30	03/31/82	G.A.AMBER	CONF W/MEYERS
BIS	1.50	04/13/82	C.J.MEYERS	RVW FILE; RESPONSE TO EXTENSION OF DISCOVERY; CONF CALL
BIS	.30	04/15/82	C.J.MEYERS	LTR TO PARTIES
BIS	.50	04/27/82	C.J.MEYERS	DEALING W/CORRESPONDENCE
BIS	1.30	05/14/82	C.J.MEYERS	PREP FOR CONF CALL; FOLLOW-UP ON SAME; TC KIMMELL
BIS	.30	05/17/82	C.J.MEYERS	ARRANGING FOR NEW ORLEANS COURTROOM
BIS	.50	06/11/82	C.J.MEYERS	RVWNG PRETRIAL ORDER
BIS	2.50	06/14/82	C.J.MEYERS	PREPNG PRETRIAL ORDER; DFTNG LTR
BIS	3.50	06/14/82	D.R.SCHIEFERSTEIN	RSCH INTERVENTION BY INTERVERTED PARTIES IN ORIGINAL JURISDICTION, BOUNDARY DISPUTES
BIS	.80	06/15/82	C.J.MEYERS	DISCUSSION OF ISSUES W/BATTLES
BIS	1.00	06/15/82	D.R.SCHIEFERSTEIN	RSCH INTERVENTION BY PRIVATE CITIZENS INTO S.C.T.
BIS	1.30	06/17/82	C.J.MEYERS	ORIGINAL JURISDICTION PROCEEDING
BIS	.80	06/18/82	C.J.MEYERS	RSCH ON THE LAW
BIS	4.30	06/18/82	D.R.SCHIEFERSTEIN	RSCH
BIS	7.50	06/21/82	A.R.FARNSWORTH	RSCH S.CT ORIGINAL JURISDICTION, REQUIREMENTS OF JOINDER
BIS	5.30	06/21/82	D.R.SCHIEFERSTEIN	RSCH RE STATE BOUNDARY DISPUTES FOR MEYERS
BIS				RSCH JOINDER, INTERPLEADER UNDER S.CT'S ORIGINAL JURISDICTION; RSCH AT D.U LAW LIBRARY-TREATISES ON

REQ BY: CJMEYERS

ATTORNEY IN CHARGE: C.J.MEYERS
BILLING ATTORNEY : C.J.MEYERS

CLIENT: MISSISSIPPI & LOUISIANA
MATTER: 86 ORIG - U S SUPREME CT

OLD FILE: TY776
NEW FILE: 62147-00016

SERVICES RENDERED : ALL THRU 06/30/83

HOURS	DATE	NAME	DESCRIPTION
.50	06/22/82	C.J.MEYERS	S.CT'S ORIGINAL JURISDICTION CONSULTATION W/DAVE S OVER MEMO ON JOINDER OF PARTIES
4.00	06/22/82	A.R.FARNSWORTH	RVW STATE BORDER DISPUTE CASES
2.60	06/22/82	D.R.SCHIEFERSTEIN	DFT INITIAL MEMO ON 3D PARTY INTERVENTION IN S.CT ORIGINAL JURISDICTION; CONF W/MEYERS
.50	06/23/82	C.J.MEYERS	DISCN OF CASES W/RANDY FARNSWORTH
5.00	06/23/82	A.R.FARNSWORTH	PREP SUMMARIES OF STATE BORDER DISPUTE CASES
6.50	06/23/82	D.R.SCHIEFERSTEIN	RSCH INTERVENTION IN S.CT ORIGINAL JURISDICTION CASES; DFT MEMO IN INTERVENTION
6.30	06/24/82	A.R.FARNSWORTH	PREP SUMMARY OF BORDER DISPUTE CASES
.80	06/24/82	D.R.SCHIEFERSTEIN	DFT MEMO ON INTERVENTION BY PRIVATE PARTIES IN S, CT.ORIGINAL JURISDICTION
1.30	06/25/82	A.R.FARNSWORTH	PROOF, REDFT SUMMARY OF CASE LAW ON ST.BORDER DISP
2.50	06/25/82	D.R.SCHIEFERSTEIN	DFT MEMO ON INTERVENTION IN S.CT.ORIGINAL JURISDICTION
1.90	06/28/82	A.R.FARNSWORTH	RSCH INIV. OF DENVER LAW LIB./RE ORIGINAL JURISDICTION CASES INVOLVING STATE BORDER DISPUTES
9.30	06/28/82	D.R.SCHIEFERSTEIN	DFT MEMO ON INTERVENTION BY PRIVATE PARTIES INTO SUP.CT ORIGINAL JURISDICTION
1.60	06/29/82	C.J.MEYERS	RVW FILES; RVWNG RANDY F'S MEMO
6.80	06/29/82	D.R.SCHIEFERSTEIN	DFT MEMO ON ABILITY OF PRIVATE PARTIES TO INTERVENE IN SUP.COURT'S ORIGINAL JURISDICTION
7.40	06/30/82	D.R.SCHIEFERSTEIN	PROOF MEMO ON PRIVATE INTERVENTION
.50	07/01/82	C.J.MEYERS	RVWNG DAVE S'S MEMO ON INTERVENTION
3.50	07/01/82	D.R.SCHIEFERSTEIN	DFT ADDENDUM TO MEMO ON INTERVENTION
2.00	07/02/82	D.R.SCHIEFERSTEIN	DFT SUPPLEMENTAL MEMO
2.00	07/06/82	D.R.SCHIEFERSTEIN	DFT SUPPLMTL MEMO ON PRIVATE PARTY INTERVENTION
.50	07/07/82	D.R.SCHIEFERSTEIN	PROOF SUPPLEMENTAL MEMO
1.40	07/13/82	C.J.MEYERS	PREP OF ORDER ON INTERVENTION; RVSN
.30	07/13/82	D.R.SCHIEFERSTEIN	DRAFT COMMENTS TO PROPOSED ORDER
.50	08/02/82	C.J.MEYERS	READING MTNS, MEMOS CN INTERVENTION
.30	08/02/82	D.R.SCHIEFERSTEIN	RVWDD MTN TO INTERVENE
.50	08/05/82	C.J.MEYERS	LINING UP COURT REPORTERS
2.00	08/16/82	C.J.MEYERS	READING MISC MEMO IN OPP TO INTERVENTION; MORE READING ON INTERVENTION; LTR TO PARTIES
4.60	08/16/82	K.E.WITT	RVW MTN TO INTERVENE & MEMORANDA
.80	08/18/82	C.J.MEYERS	ARRANGING A COURT REPORTER & NOTIFYING PARTIES
3.30	08/31/82	C.J.MEYERS	PREP OF RULING ON INTERVENTION; DFT OPINION ON SAM
5.10	09/01/82	C.J.MEYERS	DFTNG OPINION ON MTN TO INTERVENE
.50	09/02/82	C.J.MEYERS	RVSN OPINION ON INTERVENTION
.60	09/03/82	C.J.MEYERS	RVS OPINION; FINAL TOUCHES ON SAME
.80	09/03/82	K.E.WITT	RVW CJM'S OPINION RE INTERVENTION OF PRIVATE PTYS
1.00	09/08/82	C.J.MEYERS	STUDY OF MISSISSIPPI PRE-TRIAL BRIEF
1.30	09/16/82	C.J.MEYERS	READING PRE-TRIAL BRIEFS
2.00	09/19/82	K.E.WITT	RVW TRIAL BRIEFS, PREP FOR TRIAL

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GIBSON, DUNN AND CRUTCHER
SPECIAL BILLING INFORMATION SHEET - DETAIL

USER: DRW

REQ BY: CJMEYERS

ATTORNEY IN CHARGE: C.J.MEYERS
BILLING ATTORNEY : C.J.MEYERS

CLIENT: MISSISSIPPI & LOUISIANA
MATTER: 86 ORIG - U S SUPREME CT

CLD FILE: TY776
NEW FILE: 62147-C0016

SERVICES RENDERED : ALL THRU 06/30/83

	HOURS	DATE	NAME	DESCRIPTION
BIS	8.00	09/20/82	C.J.MEYERS	CONDUCTING TRIAL
BIS	8.00	09/20/82	K.E.WITT	ASSIST IN CONDUCT OF TRIAL, RVW PROGRESS W/CJM
BIS	8.00	09/21/82	C.J.MEYERS	CONDUCTING TRIAL
BIS	8.00	09/21/82	K.E.WITT	ASSIST IN CONDUCT OF TRIAL, RVW PROGRESS W/CJM
BIS	8.00	09/22/82	C.J.MEYERS	CONDUCTING TRIAL (ENDED BY ABOUT 12:00 NOON BUT
BIS				TOO LATE TO CHECK OUT OF HOTEL)
BIS	6.00	09/22/82	K.E.WITT	ASSIST IN CONDUCT OF TRIAL, RVW PROGRESS W/CJM/RVW
BIS				TRIAL NOTES
BIS	4.00	09/23/82	C.J.MEYERS	TRAVEL FRM NEW ORLEANS TO DENVER (I MAY REDUCE CH
BIS				TO \$100/HR FOR THIS)
BIS	.30	09/28/82	C.J.MEYERS	PREP OF BRIEF SCHEDULE, LTR
BIS	.50	09/28/82	K.E.WITT	GATHER BOUNDARY CASES & SET UP LEXIS SEARCH (LEXIS
BIS				WAS DOWN)
BIS	.50	10/12/82	C.J.MEYERS	HASTY RVW OF TRANSCRIPT & EXHIBITS
BIS	.80	10/13/82	C.J.MEYERS	EXAMINING EXHIBITS
BIS	1.00	10/13/82	K.E.WITT	LEXIS SEARCH RE SUPREME CT BOUNDARY CASES; RVW
BIS				NOTES FRM HRG; DISCUSS W/CJM
BIS	1.00	10/14/82	C.J.MEYERS	READING TRANSCRIPT
BIS	3.00	10/15/82	C.J.MEYERS	READING U.S.S.C. BOUNDARY CASES
BIS	1.80	10/19/82	C.J.MEYERS	READING BOUNDARY CASES & DICTATING MEMO
BIS	.30	11/01/82	C.J.MEYERS	PRLIMINARY READING OF PLAINTIFF'S BRIEF
BIS	.50	11/05/82	C.J.MEYERS	DISC W/KEW
BIS	.80	11/05/82	K.E.WITT	RVW PLAINTIFFS BRIEF & FILE TO DISC W/CJM; DISC
BIS				NEXT STEPS W/CJM
BIS	1.00	11/10/82	K.E.WITT	RSCH THALWIG CASES
BIS	1.00	11/11/82	C.J.MEYERS	CONF W/KEW; FOLLOW UP READING
BIS	5.50	11/11/82	K.E.WITT	RSCH THALWIG CASES
BIS	5.10	11/12/82	K.E.WITT	RSCH THALWIG CASES
BIS	3.00	11/15/82	K.E.WITT	RSCH THALWIG CASES; LTR TO CLK OF USSC RE SPECIAL
BIS				MASTERS REPORT IN LOUISIANA V MISS, 384 US 24
BIS				(1966) #14 ORIGINAL
BIS	.50	11/19/82	C.J.MEYERS	DISCUSSION W/KEW ON MERITS & PROCEDURES
BIS	3.00	11/19/82	K.E.WITT	RSCH THALWIG CASES
BIS	4.30	11/22/82	K.E.WITT	REVIEW TRANSCRIPT OF TRIAL & SPECIAL MASTERS' RE-
BIS				PORTS IN OTHER BOUNDARY CASES
BIS	3.50	11/23/82	K.E.WITT	REVIEW TRANSCRIPT & SPECIAL MASTERS' REPORTS IN
BIS				OTHER BOUNDARY CASES & RESEARCH THALWIG CASES
BIS	6.00	11/24/82	K.E.WITT	REVIEW THALWIG CASES & RELATE TO TRIAL TRANSCRIPT
BIS	1.30	11/29/82	C.J.MEYERS	SKIM OF PLAINTIFFS BRIEF
BIS	1.30	11/29/82	K.E.WITT	REVIEW RESEARCH NOTES & DISCUSS THE CASE W/CJM
BIS	4.10	11/30/82	C.J.MEYERS	STUDY DEFENDANTS BRIEF MARTINS REPORTS
BIS	.30	12/01/82	C.J.MEYERS	DISCUSSION OF CASE W/KEW.
BIS	.50	12/02/82	C.J.MEYERS	OUTLINE REPORT
BIS	.30	12/06/82	C.J.MEYERS	CONFERENCE W/KEW.
BIS	2.50	12/06/82	K.E.WITT	DISCUSS W/CJM & RVW RSCH NOTES ON THALWIG CASES T
BIS				OUTLINE PART OF SPECIAL MASTER'S REPORT

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GIBSON, DUNN AND CRUTCHER
SPECIAL BILLING INFORMATION SHEET - DETAIL

USER: DRW

REQ BY: CJMEYERS

ATTORNEY IN CHARGE: C.J.MEYERS
BILLING ATTORNEY : C.J.MEYERS

CLIENT: MISSISSIPPI & LOUISIANA
MATTER: 86 ORIG - U S SUPREME CT

OLD FILE: TY776
NEW FILE: 62147-00016

SERVICES RENDERED : ALL THRU 06/30/83

HOURS	DATE	NAME	DESCRIPTION
4.60	12/17/82	K.E.WITT	PULL TOGETHER THALWIG CASES & OUTLINE MEMO ON APPLICABLE LAW.
.50	12/20/82	C.J.MEYERS	CONF WITH KEW
7.60	12/20/82	K.E.WITT	MEMO ON APPLICABLE LAW
.30	12/21/82	C.J.MEYERS	STUDY LOUISIANA REPLY BRIEF
3.00	12/28/82	C.J.MEYERS	REVIEWING W/KEW THE TRANSCRIPT & EXHIBITS OF TRIAL
8.60	12/28/82	K.E.WITT	FURTHER WORK ON TRANSCRIPT & EXHIBITS.
3.10	12/29/82	C.J.MEYERS	WORK THRU TRIAL TRANSCRIPT & EXHIBITS & DICTATE
7.80	12/29/82	K.E.WITT	ANALYTICAL SUMMARY
6.30	12/30/82	K.E.WITT	REVIEWING TRANSCRIPT & EXHIBITS W/KEW
5.30	12/31/82	K.E.WITT	WORK THRU TRIAL TRANSCRIPT & EXHIBITS & DICTATE
1.50	01/03/83	C.J.MEYERS	ANALYTICAL SUMMARY
6.50	01/03/83	K.E.WITT	WORK THRU TRIAL TRANSCRIPT & EXHIBITS & DICTATE
1.00	01/04/83	K.E.WITT	ANALYTICAL SUMMARY
.50	01/05/83	C.J.MEYERS	WORK THRU TRIAL TRANSCRIPT & EXHIBITS & DICTATE
2.30	01/05/83	K.E.WITT	ANALYTICAL SUMMARY
7.40	01/06/83	K.E.WITT	WORK THRU TRIAL TRANSCRIPT & EXHIBITS & DICTATE
5.30	01/07/83	K.E.WITT	ANALYTICAL SUMMARY
.50	01/10/83	C.J.MEYERS	REVW TRIAL TRANSCRIPT AND EXHIBIT WITH KEW 86
6.30	01/10/83	K.E.WITT	REVW TRIAL TRANSCRIPT AND EXHIBITS DICTATE SUMMARY
6.80	01/11/83	K.E.WITT	REVW WITH CJM 86
.50	01/12/83	C.J.MEYERS	REVW TRIAL TRANSCRIPT AND EXHIBITS 86
7.80	01/12/83	K.E.WITT	FURTHER REVW OF EXHIBITS AND TRANSCRIPT CONF WITH KEW
10.50	01/13/83	K.E.WITT	COMPARE SMITH AND HARRISON THALWEGS 86
8.40	01/14/83	K.E.WITT	COMPARE SMITH AND HARRISON THALWEGS 86
2.90	01/19/83	C.J.MEYERS	COMPARE SMITH AND HARRISON THALWEGS AND GO OVER
6.80	01/19/83	K.E.WITT	TRANSCRIPT AGAIN FOR TESTIMONY ON THEIR
1.80	01/20/83	C.J.MEYERS	APPROACHES TO SETTING THE BOUNDARY *86
7.00	01/20/83	K.E.WITT	CONFERENCE WITH KEW
2.30	01/21/83	K.E.WITT	COMPARISON OF HARRISON, SMITH & ODOM APPROACHES TO
9.50	01/24/83	K.E.WITT	PLACING LINE BOUNDARY
.50	01/25/83	C.J.MEYERS	COMPARISON OF HARRISON, SMITH & ODOM APPROACHES TO
5.00	01/25/83	K.E.WITT	PLACING LINE BOUNDARY; OUTLINE DRAFT OF SPECIAL
5.30	01/27/83	C.J.MEYERS	MASTER'S REPORT
			CONFERENCE W KEW
			DRAFT SPECIAL MASTER'S REPORT
			DRAFT SPECIAL MASTER'S REPORT
			DRAFT SIECOA; MASTER'S REPORT 86
			REVW DRAFT OPINION DRAFT OPINION
			DRAFT OF SPECIAL MASTER'S REPORT
			READING TRANSCRIPT 86
			DRAFT OF SPECIAL MASTER'S REPORT 86
			DRAFT SPECIAL MASTER'S REPORT
			DRAFT SPECIAL MASTER'S REPORT
			WORK ON DFT REPORT *86
			DRAFT SPECIAL MASTER'S REPORT 86
			REVIEW DRAFT REPORT

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GIBSON, DUNN AND CRUTCHER
SPECIAL BILLING INFORMATION SHEET - DETAIL

USER: DRW P

REQ BY: CJMEYERS

ATTORNEY IN CHARGE: C.J.MEYERS
BILLING ATTORNEY : C.J.MEYERS

CLIENT: MISSISSIPPI & LOUISIANA
MATTER: 86 ORIG - U S SUPREME CT

CLD FILE: TY776
NEW FILE: 62147-C0016

SERVICES RENDERED : ALL THRU 06/30/83

	HOURS	DATE	NAME	DESCRIPTION
BIS	1.50	01/28/83	C.J.MEYERS	DRAFT OPINION
BIS	1.80	01/28/83	K.E.WITT	PREP EXHIBITS TO RVW W/CJM (*86)
BIS	.80	01/31/83	C.J.MEYERS	RVW DFT OPINION DISCUSS W KEW PREP LTR TO COUNSEL
BIS				86
BIS	.80	01/31/83	K.E.WITT	FINISH RVW OF ANALYSIS W/CJM (86)
BIS	.90	02/02/83	C.J.MEYERS	CONF G JOUFLAS RE RSCH; FINAL RVW W KEW OF DFT RPT
BIS				(86)
BIS	5.00	02/02/83	K.E.WITT	RVW CJM COMMENTS ON DRFT SPECIAL MASTER'S REPORT;
BIS				CONF W/CJM RE CHANGES IN DRFT SPECIAL MASTER'S
BIS	3.50	02/03/83	K.E.WITT	REPORT; BEGIN FINAL EDITING OF REPORT (86)
BIS	1.00	02/03/83	G.G.JOUFLAS	FINAL EDITING OF SPECIAL MASTER'S REPORT (86)
BIS				RESEARCH - FUNCTION AND NATURE OF REVETMENTS AS
BIS	.80	02/04/83	C.J.MEYERS	USED IN FLOOD AND EROSION CONTROL
BIS	.50	02/04/83	K.E.WITT	RVW DRFT REPORT OF SPECIAL MASTER (86)
BIS	1.00	02/05/83	C.J.MEYERS	FINAL PROOFING OF SPECIAL MASTER'S REPORT (86)
BIS	.60	02/07/83	C.J.MEYERS	FINAL RVW OF SPECIAL MASTER'S REPORT (86)
BIS	.30	02/09/83	C.J.MEYERS	FINAL RVW DRFT REPORT; DISCUSSION W/KEW (86)
BIS	.30	03/08/83	C.J.MEYERS	TC & LTR TO FINESILVER (86)
BIS	2.20	03/16/83	C.J.MEYERS	LTR TO COUNSEL
BIS				PREP FOR ARGMT TC PALMER READING OPN IN PREP
BIS	1.00	03/16/83	K.E.WITT	OF ARGUMENT (86)
BIS	2.80	03/17/83	C.J.MEYERS	RVW DFT RPT & SEVERAL EXHIBITS 86
BIS				ORAL ARGUMENT; RVW NOTES ON ORAL ARGUMENT; STUDY
BIS				EXHIBITS
BIS	1.80	03/17/83	K.E.WITT	PREPARE FOR HRG & HRG 86
BIS	.30	03/31/83	C.J.MEYERS	CONFERENCE W/KEW RE CASE ON CONTROVERSY
BIS	2.00	04/01/83	K.E.WITT	RVW CASE OR CONTROVERSY MATERIALS
BIS	1.30	04/15/83	C.J.MEYERS	PRELIMINARY RVW OF MISS BRF REREAD MISS BRIEF
BIS				RSRCH CASES (86)
BIS	.80	04/15/83	K.E.WITT	RVW MISS BRF RE SPECIFICATION OF BOUNDARY LINE (86
BIS)
BIS	.80	05/06/83	K.E.WITT	REVW MISS & LA POST TRIAL BRIEFS RE DEFINING
BIS				PRECISE BOUNDARY (86).
BIS	.30	05/17/83	C.J.MEYERS	CONFERENCE KEW (*86)
BIS	2.80	05/17/83	K.E.WITT	RVW OF PLDGS, DRAFT RPT & CASE LAW RE NEED TO
BIS				DEFINE SPECIFIC BOUNDARY
BIS	5.00	05/19/83	K.E.WITT	RSRCH ON CASE OR CONTROVERSY ADV OPN AND JDCL
BIS				RESTRAINT RE NEED TO PRECISELY DEFINE BOUNDARY
BIS				IN PROP DECREE CONFER CJM ON SAME SUBJ (86)
BIS	1.00	05/20/83	K.E.WITT	SAME AS 05/19/83 (86)
BIS	4.40	05/26/83	C.J.MEYERS	RVW OPINION
BIS	2.60	05/27/83	C.J.MEYERS	RVW OPINION
BIS	.20	05/27/83	S.M.CRAFTON	ASSGT FROM C. MEYERS
BIS	1.50	05/28/83	C.J.MEYERS	PREP OF SECTION VI OF OPINION; DRAWING BOUNDARIES
BIS	7.70	06/01/83	S.M.CRAFTON	RESEARCH AT GDC & DU LIBRARY
BIS	.90	06/02/83	C.J.MEYERS	SECTION VI OF OPINION; FINAL REPORT PART II *86

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DESCRIPTION

CONF W/C MEYERS;RSCH AT DU LIBRARY;PREP MEMO
SECTION VI (86)
PREP OF MEMO RVW MEMO
WRAP UP (FINAL REVIEW); MAKING ARRANGEMENTS FOR
FILING REPORT; 2 T/C LORSON; FINAL PROOF RECEIVED
ARRANGING FOR PUBLICATION OF REPORT (86)
PREP OPN FOR PUBLICATION PROOFREADING (86)
PROOF PRINTED COPY OF SPECIAL MASTERS REPORT
(86)
TC WARD RE BUDGET;TRANSMISSION OF FINAL REPORT

D

[illegible]

NO. 86 Original

TITLE State of LOUISIANA, Plaintiff
v.
State of MISSISSIPPI, et al.

DOCKETED

COURT

December 21, 1979

Motion for leave to file and bill of complaint

DATE

PROCEEDINGS AND ORDERS

Counsel for plaintiff: William J. Guste, Jr.

Counsel for defendants: Michael E. Ward, Thomas R. Crews
Bill Allain, J. I. Palmer

December 21, 1979	Motion for leave to file and bill of complaint filed.
December 21, 1979	Appendix filed. (and application for stay)
Feb. 15, 1980	Order extending time to file to file brief in opposition to motion for leave to file complaint filed.
Feb. 19, 1980	Order extending time for defendants Avery B. Dille, Jr., Henry W. Dille and Richard T. Dille to file a response to the motion for leave to file a bill of complaint until March 19, 1980.
Mar. 19, 1980	DISTRIBUTED. 4-11.
Mar. 18, 1980	Opposition to motion for leave to file bill of complaint and application for stay filed. (D).
Apr. 14, 1980	The motion for leave to file a bill of complaint is GRANTED. The defendants are allowed sixty days in which to answer. The application for stay of proceedings in the United States District Court for the Southern District of Mississippi is DENIED.
June 12, 1980	Answer from state of Mississippi filed.
July 17, 1980	DISTRIBUTED. SL13P3. (Answer from state of Mississippi).
Oct. 23, 1980	REDISTRIBUTED. 10-31.
Sept. 29, 1981	Parties' suggestions for persons to be appointed Special Master filed.
Sept. 30, 1981	DISTRIBUTED. 10-16. (Parties' suggestions)
Oct. 19, 1981	It is ordered that Charles J. Meyers, Esquire, of Denver, Colorado, is appointed Special Master in this case. (See Order).
Nov. 6, 1981	Oath of Special Master filed.
June 15, 1983	Report of Special Master received.
June 20, 1983	DISTRIBUTED. 6-23. (Report of Special Master).
June 27, 1983	The Report of the Special Master is received and ordered filed. Exceptions to the Report, with supporting briefs, may be filed by the parties withing 45 days. Replies to the Exceptions, with supporting briefs may be filed within 30 days.

(Over)

Title

No.

DATE	PROCEEDINGS AND ORDERS
Aug. 5, 1983	Motion of Special Master for fees and compensation filed.
Aug. 20, 1983	Exceptions to the Report of the Special Master filed.
Sept. 7, 1983	DISTRIBUTED. SL25P5 (Motion of Special Master for fees and compensation).
Sept. 9, 1983	Reply brief for Louisiana to exceptions of Mississippi filed.
Sept. 14, 1983	DISTRIBUTED. Oct 7, 1983 (Exceptions of Mississippi to the Report of the Special Master and reply thereto).
Oct. 11, 1983	The Exceptions to the Report of the Special Master are set for oral argument in due course.
Oct. 19, 1983	DISTRIBUTED. 10-28. (Motion of the Special Master for fees and compensation).
Nov. 16, 1983	CIRCULATED.
Nov. 16, 1983	DISTRIBUTED. 11-23. (Motion of the Special Master for fees and compensation).
Jan. 16, 1984	ARGUED.